

Date: Subcontract No.

SUBCONTRACT

Address:

SUBCONTRACTOR:

SUBCONTRACTOR FOR:

ACCOUNT CODE:

PROJECT:

OWNER:

ARCHITECT:

GENERAL CONTRACT: Dated:

SUBCONTRACT PRICE: Dollars

PROGRESS ESTIMATE DATE:

PERFORMANCE BOND AND PAYMENT BOND:

Bond not required if checked

RETAINAGE PERCENTAGE: TEN (10%) PERCENT

(The foregoing terms are incorporated in and more fully explained in the provisions that follow.)

and _____, a _____, "Contractor",

"Subcontractor", with offices at the address shown above, agree as follows:

1. Work. Subcontractor shall furnish all labor, materials, tools, equipment, supervision and services necessary to prosecute and complete the work identified and described in Schedule A attached hereto (the "Work"), being a portion of the work required of Contractor under the General Contract (the "Contract") between Owner and Contractor. The Work shall be performed by Subcontractor in a good and workmanlike manner strictly in accordance with the Contract Documents, listed in Schedule B and incorporated herein by reference.

Subcontractor shall be bound by all the terms of the Contract and assumes all the obligations of Contractor as stated therein, which are applicable to this Subcontract, including any provisions of the Contract required to be inserted or

incorporated into this and other subcontracts, and all such terms, obligations and provisions of the Contract are hereby inserted and incorporated into this subcontract as fully as through copied herein. Subcontractor hereby affirms that he has examined all Contract Documents, and agrees that he will not plead unfamiliarity with any of the said Documents in connection with any dispute which may arise hereunder or in connection with any claim for extra compensation.

2. Price. Subject to all of the other provisions of this Subcontract, Contractor shall pay to Subcontractor for the due and full performance of the Work the Subcontract price set forth above (the "Price"); except that if all or a portion of the Work is to be performed on a unit price basis, then the Price set forth shall be deemed an estimated total price for the Work and the actual Price shall be computed in accordance with the lump sum price, if any, and the unit prices set forth in Schedule C, based on actual quantities determined in accordance with the Contract Documents.

3. Progress Payments. As soon as practicable after the execution of this Subcontract, Subcontractor shall submit to Contractor a schedule of values of the various portions of the work, including quantities if required by the Contractor, to enable Contractor to prepare a schedule of values, etc. for the entire Contract. Subcontractor's schedule shall be prepared in such form and supported by such data as the Architect/Engineer (identified above and hereinafter called "Architect") or Contractor may direct, and shall be subject to Contractor's approval. The total of scheduled values shall equal the Price and shall be divided in such share of Subcontractor's overhead and profit.

On or before the progress estimate as identified on page I hereof, Subcontractor shall submit to Contractor an itemized progress estimate, supported by such data as Contractor may require, showing the estimated value of work completed, based on

Subcontractor's approved schedule of values and on the conditions for payment under the Contract, including without limitation conditions relating to material and equipment delivered to and suitably stored on the site and title to the materials and equipment. Each such progress estimate shall also show the amount of all previous payments to Subcontractor and the amount of current retainage, and shall include evidence satisfactory to Contractor that Subcontractor has paid all persons supplying labor, materials or services in connection with the work.

Subcontractor's progress estimate shall be used in the preparation of Contractor's application for payment to Owner under the Contract. Contractor shall pay to Subcontractor, upon receipt of payment from the Owner, an amount equal to the value of Subcontractor's completed work, to the extent allowed and paid by Owner on account of Subcontractor's work, less all previous payments and less the amount of current retainage. "Previous payments" shall include all amounts theretofore paid on account of the Work, all charges for the materials or services furnished by Contractor and properly chargeable to Subcontractor and all costs incurred by Contractor properly chargeable to

Subcontractor as obligations of Subcontractor. "Current retainage" shall be calculated by multiplying the value of the Work completed and qualified for payment by the retainage percentage set forth on page I.

Contractor shall have the right to withhold payment to Subcontractor for defective work not remedied and for any other breach of this Subcontract by Subcontractor. No payment to

Subcontractor by Contractor shall be construed to be an acceptance of any defective work.

4. Final Payment. A final payment, consisting of the

unpaid balance of the Price, shall be made within thirty (30) days after the last of the following to occur: (a) full completion of the Work by Subcontractor; (b) final acceptance of the Work by the Architect and Owner; (c) final payment by Owner to Contractor under this Contract; (d) the furnishing of satisfactory evidence by Subcontractor to Contractor that the Subcontractor has paid in full all persons furnishing labor, materials or service in connection with the Work and that neither Subcontractor nor any person claiming under or through Subcontractor has filed or has the right to maintain a lien or other claim against the Owner, the Contractor, Contractor's surety, if any, or the Project premises; (e) the return of all drawings, plans and specifications to the Contractor or

Architect; and (f) the delivery of all guaranties, warranties, bonds, instruction manuals, performance charts, diagrams, as built drawings and similar items with respect to the Work.

Contractor shall have the right to withhold payment to Subcontractor for defective work not remedied and for any other breach of this Subcontract by Subcontractor. No payment to Subcontractor by Contractor shall be construed to be an acceptance of any defective work.

5. Payment of Labor, Supplies and Material. Subcontractor will receive the payments made by Contractor and will hold such payments as a trust fund to be applied first to the payment of any persons furnishing labor, materials or services for the Work; and Subcontractor will so apply the payments from Contractor before using any part thereof for any other purpose. Subcontractor shall, as often as requested by Contractor, furnish an affidavit showing the names and addresses of all persons who shall have furnished labor, materials or services for the Work and the amount due or to become due to each such person. Progress payments may, in the discretion of the Contractor, be made in the form of checks payable jointly to Subcontractor and such person. If Subcontractor shall fail to pay promptly when due, for all labor, services, and materials furnished in connection with the performance of the Work, Contractor may, after five (5) days' written notice to Subcontractor, pay the amount of such liabilities and recover the amount thereof from Subcontractor, directly or by the application of any portion of the Price then, or thereafter becoming, due hereunder. Subcontractor will, at the request of Contractor, provide affidavit from all persons furnishing labor, materials or services to the effect that they have been paid in full.

5. Time of Completion. Completion of the Work and its several parts within the time allotted at reasonably contemplated under the Contract is of the essence of this Subcontract. Therefore, Subcontractor agree: (a) to provide at the Project Site (identified on page I hereof) the materials, equipment, laborers and supervision necessary to begin the Work upon Contractor's order to do so; (b) to perform the Work and all parts thereof promptly, diligently and in such order and sequence as Contractor may direct to assure the efficient, expeditious and timely prosecution of the entire work under the Contract; and

(c) to furnish sufficient forces, supervision, equipment and materials, at such times and for such periods, as will result in progress according to the approved progress schedule of Contractor or any modification thereof. Contractor reserves the right to modify any such progress schedule with respect to the required sequence or duration of the Work or any portion thereof,

and Contractor makes no representation that Subcontractor will be able to commence, prosecute or complete the Work in accordance with any progress schedule. Subcontractor shall promptly let all subordinate contracts and purchase orders; shall immediately notify Contractor of any inability of the subordinate contractors and material suppliers to meet the requirements of the progress schedule, and, when

required by Contractor, shall submit the names of subordinate contractors and material suppliers for approval or comment. The Subcontractor shall furnish all necessary information to Contractor required of re-expediting the Work, and if the Work is or will likely be delayed by Subcontractor's failure, he shall reimburse Contractor for any expenses required to secure performance.

7. Extensions of Time. If for reasons beyond its control Subcontractor shall be materially delayed at any time in the progress of the Work under such circumstances as would entitle Contractor to an extension of time under the Contract, Subcontractor shall be entitled to a corresponding extension of time for completion of the Work hereunder; provided that Subcontractor shall have filed with Contractor written claim for such extension that complies with the requisites for making a claim under the Contract and in sufficient time to permit Contractor to file such a claim against Owner for an extension or other relief under the Contract. If Subcontractor shall be materially delayed by the wrongful act or omission of Contractor, the time for the completion of the Work shall be extended for a period equal to the reasonable estimated period of delay as determined by Contractor. Anything herein to the contrary notwithstanding, no extension of time shall be granted unless a written claim therefore shall be presented to Contractor within forty-eight (48) hours after the commencement of the delaying event or condition. The extension of time herein provided shall be Subcontractor's sole and exclusive remedy for any delay, and Subcontractor shall have no claim for damages against Contractor by reason thereof.

8. Changes and Termination. Contractor may, without invalidating the Subcontract or any bond given hereunder, order extra and/or additional work, deletions, or other modifications to the Work, such changes to be effective only upon written order of Contractor. Any adjustment to the Price or to the time for completion of the Work shall be made in accordance with the applicable provisions of the Contract, or in the absence of such provisions on an agreed or equitable basis. Notwithstanding any inability to agree upon any adjustment or the basis for an adjustment, Subcontractor shall, if directed by Contractor, nonetheless proceed in accordance with the order, and the Price and time of completion shall be adjusted in accordance with the foregoing. If requested by Contractor, Subcontractor shall submit forthwith its detailed estimate of the value of and time involved in any such change or proposed change, including unit costs if requested, and shall furnish detailed records of costs or savings actually realized as a result of any such change. If any such changes diminish the quantity of work to be done, they shall not form the basis for a claim by Subcontractor for loss of anticipated profits.

If the Contract is terminated, this Subcontract shall be

thereupon likewise terminated, and compensation to Subcontractor shall be made on the same basis as that provided in the Contract or Contract Documents, or in the absence of applicable provisions then on an equitable basis, etc. based solely on direct labor and material costs incurred by Subcontractor to the time of termination. In no event shall Subcontractor be entitled to anticipated profits.

9. Relationships. Subcontractor shall be bound by the

decisions of this Architect with respect to the quality and quantity of the Work, meaning of the Contract Documents, acceptability of persons or organizations performing the Work and other matters are set forth in the Contract Documents, to the same extent that Contractor may be bound thereby, Subcontractor's Work shall conform to any additional specifications, drawings, or explanations furnished by the Architect for the purposes of detailing and illustrating the Work. As used in this Subcontract, the word "Architect" shall designate the architect, engineer, or other comparable person designated as the Owner's representative in the relevant context of the Contract or Contract Documents, which representative shall generally be the Architect/Engineer identified on page 1 hereof.

Contractor shall have the right to direct the prosecution of the Work and to coordinate the Work with the work of others; and Contractor shall have with respect to Subcontractor the same rights and powers as the Owner has reserved to itself with respect to Contractor for the performance of the applicable portions of the Contract. Subcontractor shall cooperate with and shall not delay, impede, or otherwise impair the work of others participating in the construction of the Project.

If Subcontractor is damaged by the act of the Owner, for

which act the Contract affords benefit and remedies solely to Contractor, the Subcontractor shall be derivatively entitled to the benefits to be achieved by the pursuit of such remedies, as Subcontractor's interest may appear; provided, however, Contractor shall not be required to file any claim or take any other action against Owner in behalf of Subcontractor unless Subcontractor shall provide adequately for the payment of, and shall pay for, all costs and expenses, including attorney's fees, that may be incurred by Contractor, in proportion to the amount of Subcontractor's claim, in the pursuit of such remedies. Contractor shall not be required in behalf of Subcontractor to file any claim or take any action against any person other than Owner; nor any claim or action that is not asserted in good faith or that would unreasonably extend the date for a substantial final payment under the Contract. It is agreed that the claim of Subcontractor against Contractor for the acts of the Owner is limited to the rights of Contractor against Owner and when such rights have been exhausted Subcontractor's claim is settled.

10. Assignment. Subcontractor shall not assign, transfer, or otherwise dispose of this Subcontract, or any part hereof, nor assign any monies due or to become due hereunder, except with the prior written consent of Contractor. Any assignment of this Subcontract consented to by Contractor shall not operate to relieve Subcontractor of its primary responsibility to Contractor of the due and full performance hereof, and Subcontractor shall be liable to Contractor for all acts and omissions of Subcontractor's subcontractors and assignees.

Any assignment of this Subcontract or monies under it without the consent of the Contractor will be void and of no effect.

II. Bonds. Unless otherwise indicated on page I hereof,

Subcontractor, at its own expense, shall obtain from a

commercial surety acceptable to Contractor separate bonds: (a) for the due and complete performance of Subcontractor's obligations hereunder; and (b) for the timely payment of all charges for labor, services, and materials furnished for the prosecution of the Work. Each such bond shall be for a sum in

liquidated damages equal to the amount set forth in the appropriate space on page I hereof, shall be in a form acceptable to Contractor and shall be delivered to Contractor within seven (7) days after the execution hereof. If, according to the foregoing provisions, Subcontractor is not required to furnish bond, Subcontractor shall submit to Contractor a current financial statement; and Contractor reserves the right at any time to require Subcontractor to furnish such bonds but at Contractor's expense. If Subcontractor is requested to furnish bonds and fails to obtain them at any time during Subcontractor's performance of this Subcontract, such failure will constitute a material breach by Subcontractor, entitling Contractor to terminate Subcontractor's performance.

12. Indemnity. Subcontractor agrees to defend, indemnify and hold harmless Contractor and Owner, and their agents and employees, from and against any claim, cost, expense or liability (including attorneys' fees), attributable to bodily injury, sickness, disease or death, or to damage to or destruction of property (including loss of use thereof), caused by, arising out of, resulting from or occurring in connection with the performance of the Work by Subcontractor, its subcontractors, or their agents or employees, whether or not caused in part by the active or passive negligence or other fault of a party identified hereunder; provided, however, Subcontractor's duty hereunder shall not arise if such injury, sickness, disease, death, damage or destruction is caused by the sole negligence of a party indemnified hereunder. Subcontractor's obligations hereunder shall not be limited by the provisions of any workmen's compensation or similar act.

Should Owner or any other person assert a claim or institute a suit, action or proceeding against Contractor involving the manner or sufficiency of the performance of the Work, Subcontractor shall upon request of Contractor promptly assume the defense of such claim, suit, action or proceeding, at Subcontractor's expense, and Subcontractor shall indemnify and hold harmless contractor and its agents and employees, from and against any liability, loss, damage, or expense arising out of or related to such claim, suit, action or proceeding.

13. Insurance. Subcontractor shall maintain and pay for

insurance of the types and with the minimum limits set forth in Schedule D attached hereto. Such coverage shall be maintained in form and with companies acceptable to Contractor, ARchitect and Owner, and shall, notwithstanding Schedule D, meet the applicable requirements imposed under the Contract or by any governmental authority having jurisdiction over the Work. Each policy of insurance required hereinabove shall provide for thirty (30) days notice to Contractor prior to cancellation.

Subcontractor shall be responsible for any desired coverage against damage or loss to its own materials, facilities, tools, equipment, plant, scaffolds, bracing and similar items not covered by Owner's or Contractor's fire insurance policy (with builders risk endorsement), if any. To the extent that Subcontractor maintains insurance coverage for loss or damage to property, Subcontractor hereby waives subrogation of claims against Contractor, Owner, other subcontractors and their agents or employees.

Subcontractor shall furnish Contractor certificates of the insurance hereunder and a copy of each lost-time accident report made to Subcontractor's insurance carriers. Subcontractor shall cooperate with its insurers to facilitate the adjustment of any claim or demand arising out of operations within the scope of the

Work. Nothing contained in this Section 13 shall relieve Subcontractor of its indemnity obligations set forth elsewhere in the Subcontract.

14. Liens. Subcontractor, for itself and for all persons furnishing labor, materials or services in connection with the Work, waives and release all mechanic's liens or claims, now existing or hereafter arising for labor or materials furnished under the Subcontract, upon the Project or Project premises or upon any monies due or to become due the Contractor. Subcontractor shall defend, indemnify and hold harmless Contractor and Owner from the operation and effect of any lien, or encumbrances. If any such lien or encumbrance is claimed, Subcontractor shall forthwith discharge same; provided, however, if such lien or encumbrance be contested in good faith by Subcontractor. Subcontractor shall so notify Contractor, and Contractor shall have the right upon forty-eight (48) hours notice to require that Subcontractor furnish a suitable bond, escrow or other reasonable assurance of payment in the event of an adverse court decision.

15. Labor. Subcontractor agrees to provide sufficient

workmen, equipment and materials of prompt and diligent prosecution of the Work and shall not directly employ workmen, equipment or materials which are likely to cause strikes, slowdowns or similar interruptions of the Work. Should a Subcontractor employ workmen who cause or participate in strikes, slowdowns or similar interruptions of the Work, etc., any and all interruptions by such workmen shall be deemed within the control of Subcontractor and shall fully entitle Contractor to the right and remedies provided for in Paragraph 21 of this Subcontract.

Subcontractor shall maintain an exercise over all employees engaged in the performance of the Work and shall remove or cause to be removed from the project premises, to the extent permitted by law, any such employee whose presence is determined by Contractor to be detrimental to the orderly prosecution of the Work.

Subcontractor shall comply with all wage rates, reporting obligations, safety regulations and similar requirements established under the Contract and by any governmental authority having jurisdiction.

16. Taxes. Subcontractors shall pay, or cause to be paid, when due, all taxes of every kind imposed, levied, or assessed by any governmental authority with respect to the Work, including taxes for labor, materials, and equipment utilized in connection therewith and expressly including all sales, personal property, excise and payroll taxes. Subcontractor, upon request of Contractor, shall furnish satisfactory evidence of such payments.

17. Defective Work. Subcontractor shall provide safe, sufficient and proper facilities at all times for the inspection of the Work by the Contractor, Owner, and Architect, or their representatives. Subcontractor shall, commencing within twentyfour (24) hours after receiving written notice from Contractor, promptly take down and remove all portions of the work which Contractor or Architect shall condemn as unsound, improper, or in any way failing to the Contract or the Contract Drawings, and shall make good all work damaged or destroyed thereby, all at Subcontractor's expense. If Subcontractor shall not remove and replace such work within a reasonable time, Contractor may remove and replace the same at the expense of the Subcontractor.

18. Miscellaneous. Subcontractor shall, at its own

expense:

(a) Obtain all necessary permits and licenses and comply with all statutes, ordinances, rules, regulations, and orders of any governmental or quasi-governmental authority, applicable to the performance of the Work; and be responsible for and correct any violations thereof;

(b) Prepare and submit to Contractor all necessary shop and erection drawings, plans, and diagrams, and furnish all necessary samples, catalogue cuts, laboratory and inspection reports and engineering calculations, in sufficient time to permit the orderly and timely prosecution of the Work;

(c) Remove, at least weekly or more often as directed by Contractor, all rubbish and surplus and waste material resulting from the prosecution of the Work and all tools scaffolding and equipment not currently required in the prosecution of the Work;

(d) Comply with the reasonable recommendations of Owner,

Contractor's and Subcontractor's insurance carriers or their association.

(e) Conform to the basic safety policy of Contractor; and comply with all specific safety requirements promulgated by Owner or Contractor, including any such requirements attached hereto as Schedule E or made a part of the Contract Documents;

(f) Repair all damage to the work or property of others

caused by Subcontractor; and

(g) Furnish temporary facilities, including cost of all,

water and electric current used by Subcontractor and proportionate cost of operating hoisting equipment furnished by Contractor, if used by Subcontractor.

19. Guarantee. Subcontractor guarantees that the Work

shall be free from defects and shall conform to and meet the requirements of the Contract and the Contract Documents; and shall furnish any separate guarantee for the Work, or portions thereof, required under the Contract or Contract Documents. Subcontractor agrees to make good, to the satisfaction of the Owner, any portion or portions of the Work which prove defective within one (1) year (or such longer period as may be specified in the Contract or Contract Documents) from the date of acceptance of the Project by Owner; provided, however, that this obligation to make good shall in no respect diminish the duration of aforesaid warranty which shall exist of the longest period provided bylaw, or exclude other warranties provided by law or the Contract Documents.

20. Patents. Subcontractor agrees to defend, indemnify,

and save harmless Contractor and Owner from and against loss, liability, damage, cost, or expense on account of infringement or alleged infringement of any patent rights by reason of the Work or materials, used by Subcontractor. Subcontractor shall pay all license fees and royalties pertaining to the Work.

21. Default. Should Subcontractor at any time: (a) fail to supply the labor, materials, equipment, supervision and other things required of it in sufficient quantities and of sufficient quality to perform the Work with skill, conformity, promptness and diligence required hereunder, (b) cause stoppage or delay of or interference with the Project Work, (c) become insolvent, or (d) fail in the performance or observance of any of the covenants, conditions, or other terms of this Subcontract, then

in any such event, each of which shall constitute a default hereunder by Subcontractor, Contractor shall, after giving Subcontractor notice of default and forty-eight (48) hours

within which to cure, have the right to exercise any one or more of the following remedies:

(i) require that Subcontractor utilize, at its own expense, overtime labor (including Saturday and Sunday work) and additional shifts as necessary to overcome the consequence of any delay attributable to Subcontractor's default;

(ii) remedy the default by whatever means Contractor may deem necessary or appropriate, including, but not limited to, correcting, furnishing, performing or otherwise completing the Work, or any part thereof, by itself or through others (utilizing where appropriate any materials and equipment previously purchased for that purpose by Subcontractor) and deducting the cost thereof (plus an allowance for administrative burden equal to fifteen (15%) percent of such costs) from any monies due or to become due to Subcontractor hereunder;

(iii) after giving Subcontractor an additional fortyeight (48) hours notice (at any time following the expiration of the initial 48 hours notice and curative period), terminate this Subcontract, without thereby waiving or releasing any rights or remedies against Subcontractor or its sureties, and by itself or through others take possession of the Work, and all materials, equipment, facilities, plant, tools, scaffolds and appliances of Subcontractor relating to the Work, for the purposes of completing the Work and securing to Contractor the payment of its costs (plus an allowance for administrative burden equal to fifteen (15%) percent of such costs) and other damages under the Subcontract and for the breach thereof, it being intended that Contractor shall, for the stated purposes, be the assignee of and have a security interest in the property described above to the extent located on the Project site (and Contractor may at any time file this Subcontract as a financing statement under applicable law); and

(iv) recover from Subcontractor all losses, damages, penalties and fines, whether actual or liquidated, direct or consequential, and all reasonable attorneys' fees suffered or incurred by Contractor by reason of or as a result of Subcontractor's default.

The foregoing remedies shall be considered separate and cumulative and shall be in addition to every other remedy given hereunder or under the Contract Documents, or now or hereafter existing at law or in equity.

After completion of the Work by the exercise of any one more of the above remedies and acceptance of the Work by Architect and payment therefor by Owner, Contractor shall promptly pay Subcontractor any balance of the Price.

Except as limited by this Subcontract, Subcontractor shall have the rights and remedies available at law or in equity for a breach of this Subcontract by Contractor. Any default by Contractor shall be deemed waived unless Subcontractor shall have given Contractor written notice thereof within seven (7) days after the occurrence of such default. Subcontractor shall not be entitled to stop the Work or terminate this Subcontract on account of Contractor's failure to pay an amount claimed

due hereunder (including changed or extra Work) so long as Subcontractor shall not have adequately substantiated the amount due or so long as a good faith dispute exists as to the amount

due. Subcontractor shall not be entitled to stop the Work on account of a default by Contractor unless such default shall have continued for more than seven (7) days after Contractor's receipt of written notice of such default from Subcontractor.

22. Disputes. In the event of any dispute between Subcontractor and Contractor arising under or relating to this Subcontract, or the breach thereof, which involves the correlative rights and duties of Owner, the dispute shall be decided in accordance with the Contract Documents, and Subcontractor, and its sureties, shall be bound to Contractor to the same extent that Contractor is bound to Owner by the terms of the Contract and by any decisions or determination made under the Contract Documents by any authorized person, board, court, or other tribunal. Subcontractor shall be afforded a reasonable opportunity to present information and testimony involving its rights and shall have the duty to cooperate with Contractor.

The pendency of a dispute shall not interfere with the progress of the Work by Subcontractor nor limit the right of Contractor to proceed, in good faith, to remedy an alleged default by Subcontractor.

23. Notices. All written notices provided for in this Subcontract shall be deemed given only when personally delivered, given by telephone with written confirmation copy following, or mailed postage prepaid to the parties at the address set forth on page I of this Subcontract. Either party may, from time to time, by notice as herein provided, designate a different address to which notices to it shall be sent.

24. Inspection of Site. Subcontractor acknowledges that its authorized representatives have personally inspected the Project site and satisfied itself as to the physical condition thereof and the locally prevailing labor, transportation, utilities, weather, and storage conditions.

25. General.

(a) All matters relating to the validity, performance, or interpretation of this Subcontract shall be governed by the law of the State in which the Project is located.

(b) As regards the subject matter hereof, this writing including documents incorporated herein by reference, constitute the entire agreement between the parties.

(c) This Subcontract and the Contract Documents are intended to supplement and complement each other and shall where possible be thus interpreted. If, however,

any provision of this Subcontract irreconcilably conflicts with a provision of the Contract Documents, the provision imposing the greater duty on the Subcontractor shall govern.

(d) This Subcontract shall not be modified or amended in any way except (i) by writing executed by both parties or (ii) as otherwise expressly provided herein.

(e) This Subcontract shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, successors and assigns.

(f) Where the context requires, the neuter shall include the masculine and feminine and the singular shall include the plural and vice versa.

(g) The Price shall not be increased or decreased on account of any changes in costs of any materials or labor on account of changes in a governmental statutes or regulations, including, but not limited to, those relating to the payment of taxes.

(h) If Contractor from time to time furnishes a crane, hoisting equipment or other machinery or equipment, with or without an operator, for Subcontractor's exclusive use, then Subcontractor shall at all times furnish adequate and competent supervision and direction therefor and shall be fully liable and responsible for safe and proper care, use and custody of such machinery or equipment.

26. Additional Provisions. For additional provisions of this Subcontract see Schedule F attached hereto and made a part hereof.

IN WITNESS WHEREOF, the parties have duly executed this Subcontract, in duplicate, as of the date set forth on page I hereof.

By: General Contractor

By: Subcontractor

SCHEDULE "A"

THE WORK

(Itemized List and Description)

SCHEDULE "B"

CONTRACT DOCUMENTS

General Contract (AIA Document A-II, April 1978 edition) dated April 1, 1987
between _____,

General Contractor, and _____,

together with General Conditions (AIA Document A-201, thirteenth edition, August, 1987)
attached thereto and made a part thereof and those certain Plans and Specifications
prepared by _____

_____ , dated _____ ,

19____ , consisting of pages I through _____ , containing _____ pages.

Subcontractor Number _____

Initials _____

EXHIBIT "C"

UNIT PRICES

Subcontractor Number

Initials

EXHIBIT "D"

SUBCONTRACTOR'S INSURANCE COVERAGE Liability and
Workman's Comp.

Subcontractor Number

Initials

EXHIBIT "E"

GENERAL SAFETY AND HEALTH PROVISIONS

Contractor requires full compliance with the requirements of the Occupational Safety and Health Act of 1970 and the Construction Safety Act of 1969, including all standards and regulations which have been or shall be promulgated by the governmental authorities which administer such Acts, by Subcontractor, its agents, employees, materialmen, and subcontractors, and said requirements, standards and regulations are incorporated herein by reference.

Subcontractor shall comply with said requirements, standards and regulations, and require and be directly responsible for compliance therewith on the part of its agents, employees, materialmen and subcontractors and shall directly receive and be responsible for all citations, assessments, fines or penalties which may be incurred by reason of its failure or failure on the part of its agents, employees, materialmen or subcontractors, to so comply.

Subcontractor Number

Initials

SCHEDULE "F"

ADDITIONAL PROVISIONS

1. The additions, deletions and modifications set forth in Paragraphs 2 through 16 below constitute a part of the Subcontract

and date , 19 .

2. Completion Date. It is understood by Subcontractor that substantial completion of the Project is scheduled for

, 19 .

3. Schedule. The Project will be constructed in accordance with the Critical Path Method of scheduling. Subcontractor's approval of his portion of the schedule will be requested. If, in the opinion of Contractor, Subcontractor is falling behind the schedule, Subcontractor shall take such steps as may be necessary to get back on schedule. Contractor may require the Subcontractor to increase the number of shifts, or overtime operations, days of work, or all of them to accomplish getting back on the schedule, all without cost to Contractor.

4. Time is of the Essence. Time is of the essence and an

, pursuant to a

construction loan made by Mortgagee with Mortgagor, agrees to make construction loan advances up to the principal amount of the Note, then Mortgagor hereby covenants that it will comply with all of the terms, provisions and covenants of said construction loan agreement, will diligently construct the improvements to be built pursuant to the terms thereof, which are incorporated herein by reference as though set forth fully herein, and will permit no defaults to occur thereunder; and if a default shall occur thereunder, it shall constitute a default under this Mortgage and Note.

18. Notices. Any written notice, demand or request that is required to be made hereunder, or under the Note, or under any other instrument of security for the Note, shall be served in person, or by certified mail, return receipt requested, addressed to the party to be served at the address set forth in the first paragraph hereof. The addresses stated herein may be changed as to the

applicable party by providing the other party with notice of such address change in the manner provided in this paragraph; provided, however, so long as the Mortgagor is the owner of all or any part of the Mortgaged Property the address of the Borrower must be located within the continental United States of America. In the event that

written notice, demand or request is r will submit all shop drawings, product data, samples, etc. for Contractor's approval in six (6) copies.

8. Trash and Rubbish. Contractor will supply a dumpster as soon as practical, for the use of all subcontractors.

Subcontractors will be requires to dispose of their trash and rubbish on a daily basis. In the event of Subcontractor';s failure to do so, Contractor, upon forty-eight (48) hours written notice, may perform this cleanup during straight time or overtime and backcharge Subcontractor.

9. Protection/Security. It shall be Subcontractor's responsibility to safeguard his own material and equipment at all times.

10. Safety. Work performed by Subcontractor shall be in accordance with all applicable terms and conditions of the Occupational Safety and Health Act of 1970 and the rules and regulations promulgated thereunder, including all modifications and/or revisions thereto, regardless as to when such modifications and/or revisions became effective.

11. Revision. When revised documents are issued which reflect either extra cost or credit, Subcontractor shall submit cost breakdown to the Contractor covering each change. Each cost breakdown shall include unit cost of material and labor with extensions listing quantities and total cost.

12. Cost of Changes. The cost to the Owner resulting from a change in the Work shall be determined as follows:

(a) By agreement of the parties, based on the Owner's acceptance of the amount submitted by the Contractor and based on its reasonable estimate of the Cost of the Work relating to the change. The work to be performed by Subcontractor shall be based on the actual Cost of the Work, plus a reasonable charge for the

Subcontractor's overhead and profit, not to exceed ten (10%) percent of such actual cost.

(b) In the event the parties are unable to agree, if the Owner nevertheless orders the change, then the cost of the change shall be the Cost of the Work determined by reference to the General Contract. The work to be performed by Subcontractor shall be based on the Cost of the Work by reference to the General Contract, plus five (5%) percent for overhead and profit.

13. Arbitration. In the event of arbitration between the Owner and Contractor involving the Subcontractor's Work, or any part thereof, Subcontractor agrees to join in the arbitration proceedings and assist Contractor as set forth in the Contract.

14. Liquidated Damages. Should Subcontractor fail to complete his work in a timely manner and in accordance with the Contractor's progress schedule or any extensions thereof, he shall be liable for any liquidated damages assessed to the Contractor as a result of Subcontractor's failure to complete his portion of the work in accordance with the approved progress schedule.

15. Work for Others. It is mutually agreed that in the event it becomes necessary to perform additional work for each other or other subcontractors on this Project, excluding Contract additions, this work will be performed without charge for profit. Overhead charges will be limited to five (5%) percent of cost.

16. Services.

(a) Temporary toilets will be provided by Contractor.

(b) Electrical power will be available and centrally located. All connections to and extensions from will be by Subcontractor.

17. In the event of termination of the General Contract, subsequent Subcontract termination shall be in accordance with Article 8 of the Subcontract. As an exception and at the

election of Owner or Owner's Lender, Subcontractor will continue to perform Subcontractor's work hereunder under the terms and conditions hereof for the benefit of Owner or Owner's Lender.

Subcontractor Number

Initials