

ADDITIONAL TERMS AND CONDITIONS

1. **INDEMNITY.** To the fullest extent permitted by law, Sub-Contractor shall indemnify, hold harmless and defend Contractor, Owner, and its representatives, architect, Owner's Lender(s), related to the project; The property manager, and all of the irrespective partners, members, shareholders, officers, directors, agents and employees (the "Indemnitees) from and against all claims, damages, loses and expenses, including, but not limited to, legal fees and costs arising out to for resulting from, whether directly or indirectly, bodily injury or death of any person, or property damage, including loss of use of the property, arising or alleged to arise out of for in anyway related to this Sub Contractor, Contractor's performance of the work, performance of the work by any party directly or indirectly employed or contracted by contractor in connection with the project (including sub-contractor and its agents, employees, representatives and/or subcontractors), or other activities of contractor, but only to the extent caused in whole or in part by any negligent act or omission of contractor or anyone directly or indirectly employed or contracted by contractor or anyone for whose acts contract may be liable; and (II) a breach of this contract by contractor. It is the parties' intention that this section shall survive termination and, if any part of it is unenforceable, shall be reformed to provide them with maximum indemnity, as intended here by available law.

With regard to any and all claims against owner or contractor or any of their agents or employees by any employee of sub-contractor anyone directly or indirectly employed by him or anyone whose acts it may be liable, the indemnification obligation provided herein shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for sub-contractor under Workers' Compensation Acts, Disability Benefit Acts or other employee benefits acts or any other form of insurance carried or provided by sub-contractor.

Sub-contractor expressly understands and agrees that it and its agents, employees, vendors, contractors or others acting by, through or under any of them any right whatsoever to place a lien or other encumbrance on any real property that is connected with to or referenced in the contract documents or on which sub-contractor and its agents, employees, vendors, contractors or other acting by, through or under any of them performed any part of the work or their work benefited such property, sub-contractor on its own behalf its agents, employees, vendors, contractors or others to lien real property whether such a right arises under Texas property code 53.001, ET SEQ., common law, or otherwise.

2. **Compliance with Applicable Laws.** Sub-contractor shall comply with all federal, state and local tax laws, social security acts, unemployment compensation acts, fair labor standards, and workers' or workmen's compensation acts insofar as applicable to the performance of this Subcontract and the employment of any person by the sub-contractor. Sub-contractor hereby represents, warrants and certifies that all employees, subcontractors, or agents working under this Subcontract are legally authorized to work in the United States of America.
3. **Compliance with Federal Wage Laws.** Sub-Contractor represents and warrants that all employees, contract labor and any of Sub Contractor's employees will be paid not less than the Federal Minimum Wage as set forth in 29 CFR paragraph206, or the wage-rate schedule

applicable to this Project, whichever is higher. The Sub Contractor shall keep a copy of each payroll entry showing the name, number of hours worked each day, the occupation, and the wage rate paid each employee, contract labor and any Sub Contractor's employees together with a complete record of all deductions made from such wages. Upon request, the Sub Contractor shall submit copies of the payroll records to the Contractor. The Owner shall withhold payments due to the Contractor until the Contractor has complied with this provision; therefore, Contractor shall withhold payments to the Sub Contractor until this provision is complied with.

4. **Observance or Authority.** Sub-Contractor shall give all notices and comply with all rules, ordinances, statutes, regulations, orders, laws, or decrees, that may be required or issued under by any applicable state, federal or local governing body that is effective or applicable to the carrying out of Sub-contractor's work under this subcontract; and to meet all of the requirements of the Owner whether required within the Contract Documents or under any law or regulation respecting labor priorities, maximum hours, scale of wages to workmen, or the method of payment and to furnish proper proof of compliance if and when required by law or requested by the Owner or the Contractor.
5. **Compliance and Indemnity.** Sub-Contractor shall take all reasonable safety precautions in the execution of its work and shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority for the safety of persons or property and shall, to the greatest extent allowed by law, indemnify Contractor for any fines, costs or damages, including attorneys' fees and costs, which Contractor may incur because of violations of any such laws, ordinances, rules or regulations. Additionally, Sub-Contractor shall abide by the provisions of the Russell Tisdale Construction, LLC safety policy, as it may be amended. A safety checklist providing suggested, but not comprehensive, guidelines is available upon request.
6. **Reporting.** Sub-Contractor will immediately report to Contractor any injury to any of Sub-Contractor's employees and any citation by any governmental or quasi-governmental body, including the Occupational Safety & Health Administration (OSHA) whether or not such violation or citation was made in connection with any injury. An initial report may be made orally, in the interest of time, but shall be reduced to writing and submitted to Contractor within twenty-four (24) hours of Sub-Contractor's discovery.
7. **Compliance with Contract Documents.** Sub-Contractor shall be bound to Contractor by the terms of this Subcontract and, to the extent of the work covered under this Subcontract, by the provisions of the Contract Documents; and Sub-Contractor shall assume toward Contractor all of the obligations and responsibilities which Contractor, by those Contract Documents, assumes towards Owner. In the event of any dispute between Sub-Contractor and Contractor, Sub-Contractor shall have no greater right or remedy than Contractor has under the applicable Contract Documents against Owner.
8. **Mutually Bound.** In the event of any controversy respecting the fulfillment of the terms and conditions of the Contract concerning any of the work under this Subcontract, the decision of the Owner or its authorized agent shall be final and binding upon the Sub-Contractor to the

extent that same is binding on the Contractor under the terms and conditions set out in the Contract Documents.

9. **Costs or Completion upon Termination.** If this Subcontract is terminated for cause, Sub-Contractor understands and agrees that all costs of completion for the Sub-Contractor's work shall be charged to Sub-Contractor and an accounting shall be had when the work is finally completed to determine whether any amount is due from Contractor to Sub Contractor or vice versa, and payments shall be made according to said accounting.
10. **Contractor's Rights Upon Termination.** Upon termination of this Subcontract, Contractor may, in its sole discretion, take over all equipment, tools and machinery of Sub Contractor and the materials necessary for operating the same and to use them together with any selected part of the construction organization of Sub-Contractor in completing this work or to assign the right to use same to any other sub-contractor who may be designated and selected to complete the work by Contractor.
11. **Bankruptcy/Insolvency.** In the event Sub-Contractor is placed in bankruptcy, becomes insolvent or files for protection under federal bankruptcy laws, Contractor reserves the right, and Sub-Contractor expressly agrees to allow Contractor, to complete the work on Sub-Contractor's behalf until such time as Contractor receives adequate assurance from Sub-Contractor that completion will be provided by Sub Contractor's account under the preceding paragraph. Whether Sub-Contractor has provided adequate assurance shall be determined in the sole discretion of Contractor.
12. **Right of Offset.** In the event of multiple Contract agreements between Contractor and Sub-Contractor, and in the event of default by Sub-Contractor on any such agreement, Contractor shall have the right to offset any costs for completion or other damages on any other contract or agreement against amounts otherwise due Sub-Contractor under this Subcontract.
13. **Waiver of Untimely Claims.** In no event shall Contractor's liability for any claim of any nature whatsoever by Sub-Contractor exceed the amount Contractor is entitled to receive and, in fact, does receive from Owner for such claim on behalf of Sub-Contractor; it being Sub-Contractor's responsibility to review claims procedures under the Contract Documents and to provide Contractor with sufficient notice so that such claims can be presented to Owner in a timely manner. All Claims not presented within the requirements of this Subcontract and the requirements of the Contract Documents are waived.
14. **Notice.** Each party giving or making any notice, requests, demand or other communication (each, a 'Notice') pursuant to this Subcontract shall give the Notice in writing and use one of the following methods of delivery: personal hand delivery; Registered or Certified Mail (in each case, return receipt requested and postage prepaid; by nationally recognized overnight courier (with all fees prepaid). Sub-Contractor's Notice shall be provided to the address printed on the first page of this Subcontract. Any Notice to Contractor may be addressed to Contractor at 179 S Main Street, 2nd Floor, Boerne, Texas 78006. Either party may by written Notice, change the address for future Notice so long as the writing clearly expresses an intention to change the party's Notice address.

15. **Complete Agreement.** No party is relying upon any prior or written discussion, representation or agreement and this Subcontract supersedes all such prior written or oral communications. The provisions of this Subcontract may not be explained, supplemented or qualified through evidence of trade usage or prior course-of-dealing. There are no conditions precedent to the effectiveness of this agreement, other than those expressly stated in this Subcontract or the Contract Documents. The parties may only amend this Subcontract in a writing that references this Subcontract and that is executed by a duly-authorized representative or agent.
16. **Reservation of Rights.** Contractor reserves all its rights whether under this Subcontract, at law or in equity to recover for any loss or damage suffered in relation to or arising out of this Subcontract or the Contract Documents. If the Contractor pursues any such right the Subcontractor acknowledges and agrees that it shall be responsible for all fees, costs, injuries, invoices, charges, fines, damages and other amounts (collectively, "Damages") at the time incurred.
17. **Governing Law and Venue.** This Subcontract and the rights and obligations of the parties hereto shall be construed, interpreted and determined in accordance with the laws of the State of Texas without reference to the choice-of-law principles of this state or any other jurisdiction and without the aid of any rule, custom or canon requiring construction or interpretation of this Agreement against the draftsmen. The parties further agree that venue for any dispute is proper in, and the parties each submit to the jurisdiction of, a court or competent jurisdiction in Boerne, Kendall County, Texas. Any dispute arising out of or relating to this Agreement shall be resolved in accordance with the procedures set forth herein, which shall be the sole and exclusive procedures for the resolution of any such dispute.
18. **Dispute Resolution.** Any dispute arising out of or relating to this Subcontract, including the breach, termination or validity thereof, which has not been resolved by negotiation or nonbinding mediation, which the parties prefer, SHALL BE ARBITRATED, AS SET FORTH IN THE CONTRACT, IN BOERNE, KENDALL COUNTY, TEXAS AND SHALL NOT BE TRIED BEFORE A JURY OR SUBJECT TO A TRIAL BY JURY. THE PARTIES ACKNOWLEDGTE THEY ARE FOREGOING ANY RIGHT TO A TRIAL BY JURY FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND HAVE BEEN GIVEN THE RIGHT AND OPPORTUNITY TO CONSULT WITH INDEPENDENT LEGAL COUNSEL IN REACHING THIS AGREEMENT GENERALLY AND THIS PROVISION SPECIFICALLY.
19. **Captions.** The descriptive headings of the sections and subsections of this Subcontract are for convenience only, do not constitute a part of this agreement, and do not affect this agreement's construction or interpretation.
20. **Severability.** If any provision of this Subcontract is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired. The parties also agree that any provision severed shall be revised to comply with applicable law in a manner that gives maximum effect to the intent expressed herein.

21. **Waiver.** The parties may only waive the terms of this Subcontract, particular sections of this Subcontract or any policy of the Contractor in writing executed by duly-authorized agents of the parties. No failure or delay in exercising any right or remedy or in requiring the satisfaction of any condition under this agreement and no act, omission or course-of-dealing between the parties, shall operate as waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver, once given, is not to be construed as a waiver on any future occasion or against any other party or person.
22. **Counterparts.** This Subcontract may be executed in one or more counterparts, each of which will be deemed to be an original copy of this agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.
23. **No Joint Venture or Partnership.** Sub-Contractor is, at all times, acting as an independent contractor. Nothing in this Subcontract shall constitute or be interpreted as creation of a partnership or joint venture between Sub-Contractor and Contractor, or the successors or assigns of either. Sub-Contractor controls the means, methods, tools, materials, know how, and timing of its work, subject to the overall Project requirements, which Sub-Contractor agrees to comply with. Sub-Contractor, and not Contractor or Owner, is responsible for its employees, employment and other tax obligations, employees benefits and other plans.
24. **Conflicts.** The terms and provisions of this Subcontract supersede and supplant any subsequent or concurrent agreement between or among Contractors and Sub-Contractor in connection with or relating to the Contract, the Contract Documents, the work and/or the Project, unless such agreement is in Writing and signed by both parties' authorized agents.
25. **Termination for Cause.** Contractor shall have the right to terminate this Subcontract for cause if, after forty-eight (48) hours written Notice to the Sub Contractor upon the occurrence of any of the following:
 - a. the refusal or failure of the Sub Contractor at any time to supply necessary material, labor, or equipment or a sufficient number of properly skilled workmen to carry out the work as directed by Contractor, Owner, or the Owner's authorized agent;
 - b. the failure of the Sub Contractor for any reason to carry out and perform the work under this Contract timely or maintain daily progress satisfactory to Contractor;
 - c. the failure to timely pay any of its vendors, suppliers, employees, or subcontractors;
 - d. the filing of any bankruptcy by Sub Contractor or the inability of the Sub Contractor to pay its bills as they come due;
 - e. Sub-Contractor fails to continue the work in a timely manner or fails to perform its work in a good and workmanlike manner;
 - f. the material breach of any provision of this Subcontract; or
 - g. Sub-Contractor makes any assignment of this Subcontract for the benefit of creditors without the express, written consent of Contractor.