

**"TERMS AND CONDITIONS"  
OF SUBCONTRACT BY AND BETWEEN  
JOHN E. GREEN COMPANY ("JEG") AND ("SUBCONTRACTOR")**

The following Terms and Conditions shall supplement the Subcontract and, together with that Subcontract and all documents incorporated by reference in that Subcontract and in these Terms and Conditions, constitute the fully integrated agreement (the "Subcontract") between JEG and Subcontractor:

1. Definitions:

- a. Change Order: A written document signed by both JEG and the Subcontractor stating their agreement upon a change in the Work, the amount of a Contract Amount adjustment, if any, and the extent of a time adjustment, if any.
- b. Claim: A demand or assertion by either JEG or the Subcontractor seeking an adjustment or interpretation of the Subcontract terms, the payment of money, an extension of time or other relief with respect to the terms of the Subcontract. The term "Claim" also includes other disputes and matters in question between JEG and the Subcontractor arising out of or relating to the Subcontract or the Work.
- c. Constructive Change Directive: A written order signed by JEG directing a change in the Work prior to an agreement on the adjusted Contract Amount or time adjustment to the Subcontract, if any.
- d. Contract Amount: The Contract Amount (as set forth in the Subcontract form) shall be deemed to include all costs of every type incurred by Subcontractor in the performance of the Work, including without limitation, all costs for labor, material, equipment, permits, fees, tests, taxes, insurance and the cost of all other things incurred in connection with Subcontractor's performance of the Work.
- e. Cost Records: Complete and accurate cost accounting records to substantiate the actual costs paid for performance of the Work.
- f. JEG Contract: All documents that form the contract under which JEG is obligated to perform work on the Project, including without limitation, the JEG Contract and all documents that by reference are incorporated into the JEG Contract.
- g. Professional Services: Architecture, engineering, detailing, modeling, coordination or any other design related services.
- h. Work: All labor, material, tools, machinery, equipment, hoisting, storage facilities, utilities and other things necessary for complete and proper performance of the Work.
- i. Owner: For purposes of these Terms and Conditions, the term "Owner" shall mean the architect, engineer, general contractor, construction manager, Project Owner or any other party designated by JEG.

2. Formation of Subcontract. Subcontractor shall be deemed to have accepted the Subcontract and be bound legally under the Subcontract upon the earlier of:

- a. JEG's receipt of a copy of the Subcontract signed by Subcontractor; or
- b. Subcontractor's providing any of the services in preparation for performance of the Work or performing any of the Work covered by the Subcontract or delivering to the Project any equipment or materials for performance of the Work covered by the Subcontract. Subcontractor's commencement of performance constitutes Subcontractor's conclusive acceptance of these Terms and Conditions.

The Subcontract expressly limits and is expressly made conditional upon Subcontractor's acceptance of these Terms and Conditions, and JEG's notification of objection and rejection to any different or additional terms is hereby given to Subcontractor. Any of Subcontractor's terms different from or in addition to the Terms and Conditions of the Subcontract, whether contained in any proposal, invoice, acknowledgement, release, submittal/shop drawing or other written correspondence, shall not form a part of the Subcontract, even if Subcontractor purports to condition its acceptance of the Subcontract on JEG's agreement to such different or additional terms. Under no circumstances will any of Subcontractor's proposed terms and conditions become a part of this Subcontract or the contractual relationship between JEG and Subcontractor. In the event that approval of Subcontractor or the Subcontract is required to be given by the Owner, and such approval is not obtained or is withdrawn, the Subcontract shall be deemed void and of no further legal force or effect, except for such provisions of the Subcontract under which Subcontractor is obligated to indemnify, defend or hold JEG harmless from any liability arising from Subcontractor's failure to fully and punctually perform any of its obligations under the Subcontract. Subcontractor shall furnish all information and/or documents requested as necessary to obtain the above approval(s). JEG may withdraw the Subcontract at any time before acceptance by Subcontractor, and upon such withdrawal, the Subcontract shall be deemed conclusively to be without further binding force or legal effect and may not thereafter be accepted by Subcontractor.

JEG reserves its right to withhold payment from the Subcontractor until such time a signed Subcontract and insurance documents compliant with Article 16 of this Subcontract are received by JEG.

3. The Contract Documents.

- a. The documents forming the Subcontract are the Subcontract form, these Terms and Conditions, and the JEG Contract. Where any term in these Terms and Conditions or in the Subcontract is in conflict with any term of any other documents forming the Subcontract, the terms that require the greater quantity, higher quality or best performance, as reasonably determined by JEG in its discretion, shall supersede such conflicting term of such other documents and shall govern the rights and obligations of Subcontractor and JEG. It is the Subcontractor's responsibility to ensure the Subcontractor is utilizing the correct and most current Contract Documents.

b. In connection with, and applicable to, Subcontractor's performance of the Work under the Subcontract, Subcontractor shall have all the obligations to JEG that JEG has under the JEG Contract for performance of JEG's work. JEG shall have all the rights and remedies against Subcontractor which Owner has against JEG under the JEG Contract. If Subcontractor subcontracts any of the Work under the Subcontract, its subcontractor shall undertake in a written agreement the performance of all such obligations with respect to the portion of the Work it is to perform under its subcontract. Subcontractor shall make available to such subcontractors all documents forming the Subcontract and creating those performance obligations.

4. The Work. The Work to be performed by Subcontractor is described in the Subcontract form and any other contract documents attached to, or incorporated by, that form on which a description of the Work is contained. All Work shall be performed in strict accordance with the Subcontract.

5. Time of Commencement and Completion of Work.

a. Time is of the essence in the performance of this Subcontract by Subcontractor. Subcontractor shall commence performance of the Work at such time as designated by JEG and as Project conditions require and shall provide JEG with any requested scheduling or productivity information for the Work. The date designated by JEG for commencement of Subcontractor's Work shall be confirmed in writing to JEG by Subcontractor. Subcontractor shall complete the Work so as to cause no delay to the work of any other contractor on the Project, including the work being performed by JEG. Subcontractor shall maintain such progress in completion of the Work as may be required to enable JEG to satisfy all requirements for completion of the work under the JEG Contract. Subcontractor shall secure all necessary information and approvals, and plan, purchase, fabricate and do all things necessary to comply with the schedules issued by the Owner or JEG and the Project completion dates.

b. When directed by JEG, Subcontractor shall increase manpower, work additional hours and shifts, work weekends and holidays and expedite equipment and material deliveries to the extent necessary, in JEG's opinion, to comply with Subcontractor's obligations under this article. JEG may direct that Subcontractor delay or suspend performance of the Work or perform the Work in one or more designated sequences, as Project conditions may require. To the extent that Subcontractor is the cause of any delay, increase in manpower, additional hours and/or shifts, or overtime work, no such directions from JEG to perform that Work shall constitute a basis for any Claim for additional compensation and Subcontractor shall be responsible for such additional costs.

c. If Subcontractor is unreasonably delayed at any time in the progress of the Work by the neglect of the Owner, or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties, or by delay authorized by JEG, then the Subcontract time for performance may be extended for such time, if any, as JEG decides in its sole discretion.

d. If Subcontractor seeks to request an extension of the Subcontract time for performance, a written Claim for an extension of time must be presented to JEG within seven (7) calendar days, or as required by the JEG Contract with the Owner, whichever is more stringent, after the delay-causing event commences. If Subcontractor's Claim is not so submitted, Subcontractor shall not be entitled to an extension of the Subcontract time for performance, and no extension of time for completion of the Work will be granted.

e. Unless JEG recovers compensation from the Owner, and only to that extent, no Claim for financial damages or additional compensation (other than for an extension of time as provided in this article), shall be made or asserted by Subcontractor against JEG by reason of any alleged delay to the Work. An extension of the Subcontract time for performance shall constitute Subcontractor's sole and exclusive remedy due to any delay to the Work; and any Claim for compensation shall be waived and released.

6. Contract Amount. The Contract Amount shall be paid to Subcontractor in accordance with the Subcontract.

7. Applications for Payment.

a. At least five (5) days before Subcontractor's first application for payment is submitted to JEG, a schedule of values shall be submitted by Subcontractor in writing to JEG for approval. The schedule of values shall be prepared in such form as specified by JEG and shall divide the Work into discreet categories and include a proper share of overhead and profit included in the Contract Amount. The total schedule of values shall equal the Contract Amount. At least ten (10) days before the date on which JEG submits its application for payment under the JEG Contract, Subcontractor shall submit to JEG its application for payment under the Subcontract. The application for payment shall be in a form and substance as required by the JEG Contract, including a certification by Subcontractor that all Work covered by the application for payment has been completed in accordance with the Subcontract. Each application for payment shall be submitted together with the following documents:

i. A sworn statement in proper form and properly executed by Subcontractor listing all suppliers of labor, material, or other things used by Subcontractor in performance of its Work and designating for each supplier the amount of its contract, the amount due and to become due for such labor, material or other things supplied and to be supplied by that supplier/subcontractor. The listing of suppliers on the sworn statement shall include all union fringe and welfare benefit funds to which Subcontractor is required to make payment in connection with labor provided for performance of the Work under the Subcontract;

ii. Waivers of lien properly executed by Subcontractor and each supplier listed under Subcontractor's sworn statement in accordance with the preceding subparagraph, including all union fringe and welfare benefit funds to which Subcontractor is required to make payment in connection with labor provided for performance of the Work;

iii. Releases of any claims under any bonds provided for payment of labor and/or material on the Project, which releases are to be executed by Subcontractor and each of its suppliers, including all union fringe and welfare benefit funds to which Subcontractor is required to make payment in connection with labor provided for performance of the Work; and,

iv. Any other documents, including from its suppliers and/or subcontractors, of the type required to be submitted by JEG and necessary for JEG to obtain payment under the JEG Contract.

b. The amount payable to Subcontractor under any application for payment shall be subject to any provisions in the JEG Contract for retainage to be withheld from the amount approved for payment under these Terms and Conditions. Upon approval by JEG of Subcontractor's application for payment, the amount approved shall be included by JEG in its application for payment under the JEG Contract. The amount payable by JEG to Subcontractor under any application for payment shall be equal to the amount paid to JEG under its application for payment under the JEG Contract that is properly allocable to the Work performed by Subcontractor and covered by Subcontractor's application for payment. Subcontractor shall not be entitled to any payment under any application for payment unless, and until such time as, JEG has received payment under the JEG Contract for the Work performed by Subcontractor and covered by its application for payment, and JEG's receipt of such payment under the JEG Contract is a condition precedent to any obligation of JEG to pay Subcontractor. If payment to JEG under the JEG Contract is delayed or reduced as a result of any failure of Subcontractor's Work to comply with any requirements of the Subcontract, payment to Subcontractor for such Work shall not be due unless and until such time as all defects and deficiencies in Subcontractor's Work are corrected completely and JEG receives payment for that Work under the JEG Contract. No payment to Subcontractor by JEG shall be construed to be an acceptance of any defective or deficient Work. Subcontractor's acceptance of any payment from JEG constitutes an irrevocable waiver of any and all Claims, liabilities or demands by Subcontractor related to its Work up to and through the date of the most recent application for payment. Those payments made by JEG to Subcontractor on behalf of its subcontractors and suppliers are made for their benefit and shall be held in trust by Subcontractor to make proper payments. Acceptance of final payment shall constitute a waiver of all Claims by the Subcontractor as to JEG and the Owner of any kind relating to the Subcontract and/or the Work. If Subcontractor fails to issue a proper invoice for final payment within 30 days of JEG's written request, then JEG may issue final payment in such amount as it deems correct.

c. Unless otherwise provided in the Subcontract or the JEG Contract, applications for payment may include materials and equipment not yet incorporated in the Work but delivered to and suitably stored on or off the Project. Approval of payment applications for such stored items on or off the Project shall be expressly conditioned upon submission by the Subcontractor of bills of sale and required insurance or such other procedures satisfactory to the Owner and JEG to establish the Owner's title to such materials and equipment, or otherwise to protect the Owner's and JEG's interests, including transportation to the Project.

d. In addition to other rights and remedies available to JEG under the Subcontract or at law, JEG shall be entitled to withhold from or offset any payment otherwise due Subcontractor, whether or not arising under the Subcontract or under any other agreement between JEG and Subcontractor for any other project, for: (a) the value of changes made in Subcontractor's Work that reduces the Contract Amount; (b) amounts withheld by the Owner applicable to Subcontractor's Work; (c) damages incurred through delay by Subcontractor; and (d) damages incurred to remedy a default by Subcontractor. If the amounts for such withholding are in excess of the payments due Subcontractor, then Subcontractor shall promptly pay the total amount of any such excess to JEG. This remedy shall be in addition to any other remedies provided for elsewhere in the Subcontract or existing at law. Subcontractor shall not stop performing any Work in the event of a dispute as to payments owed as long as all undisputed amounts, as determined solely by JEG, have been paid by JEG in accordance with the Subcontract.

8. Professional Services. If the Subcontract requires Subcontractor to perform Professional Services, the following additional requirements shall apply with respect to such services:

a. Subcontractor shall cause all Professional Services to comply with the requirements of the Subcontract and all laws, regulations, ordinances and requirements of governmental authorities and agencies having jurisdiction over the design, construction, existence or use of the Project. Subcontractor shall cause all such services to be performed by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, shop drawings and other submittals prepared by such design professional. JEG shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professional.

b. Subcontractor shall cause all Professional Services to be provided with all due care that would be followed for a comparable project by a skilled professional in the same field, Working in the same region where the Project is located. Subcontractor shall be responsible to JEG for any loss, damage and/or expense incurred by JEG on account of any error or omission of Subcontractor in the performance of the Professional Services.

c. Subcontractor shall cause the design and installation of all Subcontractor-designed Work to interface properly with the design and construction of the entire Project.

9. Liens. Subcontractor shall keep the Project free of all liens, including those made by its subcontractors and suppliers. Within ten (10) days after a written demand, or in less time if required by the JEG Contract, Subcontractor shall discharge or bond off any such lien(s), including any lien it recorded. If Subcontractor fails to do so, JEG may, in its sole discretion, use any means necessary to remove the lien(s) and Subcontractor shall be liable to JEG for any related costs and reasonable attorneys' fees. JEG, in its sole discretion, may pay any of Subcontractor's subcontractors, laborers or suppliers directly and deduct the payment amount from the remaining Contract Amount due, if any. Payment by JEG to any subcontractor, laborer or supplier shall not relieve the Subcontractor of any obligations to JEG under the Subcontract.

10. Payment and Performance Bonds. If payment and performance bonds are required to be provided by JEG or required under the JEG Contract, or if otherwise specified in the Subcontract, Subcontractor shall provide payment and performance bonds in the full amount of the Contract Amount or in such amount required under the JEG Contract, whichever is greater, unless this requirement is waived expressly in writing by an officer of JEG. Such bonds shall be executed by a surety company acceptable to JEG and shall be issued guaranteeing to JEG the full and punctual performance of the Subcontract by Subcontractor and the payment by Subcontractor of all costs incurred or to be incurred in connection with performance of Subcontractor's Work under the Subcontract. Failure by Subcontractor to furnish such bonds within five (5) days after written notice from JEG shall, at the sole option of JEG and without further notice, constitute a default under Article 22. No payment under the Subcontract shall be due or made to Subcontractor until Subcontractor has furnished the bonds required by JEG.

11. Shop Drawings and Other Submissions. In connection with performance of the Work under the Subcontract, Subcontractor shall submit to JEG all shop drawings, product samples and other submissions of the type required to be submitted by JEG under the JEG Contract. Such shop drawings and other submissions shall be submitted by Subcontractor to JEG at such times and in such quantities as is required of JEG under the JEG Contract. The amount of time required for review and return to Subcontractor of such shop drawings and submissions may vary with Project conditions, and Subcontractor agrees that such occurrence is a condition over which JEG does not have exclusive control. No review or approval of any shop

drawings or other submissions by Subcontractor shall relieve Subcontractor in any way of any obligation or responsibility Subcontractor has for the full, proper and timely performance of the Work.

12. Subcontractor's Duty to Coordinate Its Work. Subcontractor shall be solely responsible for all means, methods, techniques, sequences and procedures associated with its Work. Subcontractor's Work will be performed concurrently with JEG and other contractors and subcontractors on the Project. Subcontractor shall coordinate its Work with the work of JEG and such other contractors and subcontractors and shall make such adjustments in the time and sequence of performance of the Work as may be required by Project conditions that arise during construction of the Project. Subcontractor warrants that all costs and expenses to be incurred in connection with such coordination of its Work are included in the Contract Amount. Subcontractor shall not cause any damage, delay or cost to JEG or such other contractors and subcontractors by reason of its failure to properly coordinate its Work with the work of others on the Project. Likewise, Subcontractor shall indemnify, defend and hold JEG and Owner, harmless from any and all liability and expense, including without limitation, reasonable attorneys' fees, arising out of, or in any way relating to, any damage caused or claimed to have been caused, by Subcontractor to any other contractor or subcontractor (including JEG), working on the Project. This indemnification obligation shall survive the termination of the Subcontract.

Subcontractor assumes all risks, hazards and conditions in connection with the performance of the Work, including, but without being limited to, weather, delays in delivery of materials or equipment, embargoes, strikes or labor disturbances directed against Subcontractor, its subcontractors or other contractors. Subcontractor shall have no Claim for compensation of any kind under this article and no increase shall be made in the Contract Amount for any of the reasons stated in this article.

13. Protection of the Work. Subcontractor shall be responsible for the protection and security of the Work until the Owner takes final possession of the Project.

14. Indemnification. Subcontractor shall indemnify, defend and hold JEG, Owner, their members, officers, employees, agents, consultants and representatives harmless to the fullest extent permitted by law from any and all demands, claims, causes of action, losses, damages, judgments, fines, liability and expense of every kind, including without limitation, reasonable attorneys' fees and costs, arising out of, or in any way related to, any failure or claimed failure of Subcontractor to perform any of the Work. This duty to indemnify, defend and hold harmless also shall include any obligation stated in or created by the terms of the Subcontract, or from any claim for personal injury, sickness, death and/or property damage, including loss of use of property resulting therefrom, arising out of or relating to the Subcontractor's performance of the Work. This indemnification obligation shall survive the termination of the Subcontract.

15. Patents and Trademarks. Subcontractor warrants and represents that none of the goods or materials provided by Subcontractor under the Subcontract infringe any patent, copyright, trade secret, trade name, trademark, or other proprietary right applicable to such goods or materials. Subcontractor shall indemnify, defend and hold JEG and Owner harmless from any and all liability and expense, including without limitation, reasonable attorneys' fees and expenses, arising from, or in any way related to, any claim that any goods or materials provided by Subcontractor infringe any patent, copyright, trade secret, trade name, trade mark, or other proprietary rights. Subcontractor's indemnification under this article shall not apply to any claim of patent infringement arising from Subcontractor's manufacture of any of the goods covered by the Subcontract in accordance with a specified design or specification furnished by JEG and with which Subcontractor is required to comply.

16. Subcontractor's Insurance. Before commencing the Work, Subcontractor (and all sub-subcontractors, suppliers and sub consultants of all tiers) shall procure at its own expense and maintain without interruption during the term of this Agreement and/or until the end of the applicable warranty period or as specified herein, all insurance of the type and having coverage limits in the amount required under the JEG Contract, but in no event shall the types and coverage limits of such insurance be less than the following minimum coverages and limits in subparagraphs a-e, below. Other insurance may be required depending on specialized services being provided (such as pollution liability, aviation liability, riggers legal liability, etc.). Such coverage shall be placed in insurance companies who have at least an A.M. Best company rating of A-.

a. Workers' Compensation and Employer's Liability Insurance:

i. Workers' Compensation and Occupational Disease Coverage in accordance with the laws of the state within whose jurisdiction the Work is performed. In the event that the Work of the Subcontract falls within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or the Federal Employer's Liability Act, the Subcontractor shall extend its insurance coverage to provide and maintain in full force and effect during the period covered by the Subcontract, insurance against the liability imposed under any or all of these Acts as applicable.

ii. Employer's Liability Coverage with a minimum limit of \$500,000/\$500,000/\$500,000.

b. Commercial General Liability Insurance: including but not limited to the following coverages:

- i. Premises/Operations Liability.
- ii. Explosion, Collapse and Underground Hazards Included.
- iii. Products/Completed Operations Hazards Included.
- iv. Contractual Liability Coverage Included.
- v. Broad Form Property Damage Liability Included.
- vi. Independent Contractors (Contractors' Protective) Liability.
- vii. Personal Injury Liability.
- viii. The Limits of Insurance shall be at least as follows:

\$2,000,000	General Aggregate Limit (Other than Products/Completed Operations)
\$2,000,000	Products/Completed Operations Aggregate Limit
\$1,000,000	Personal and Advertising Injury Limit
\$1,000,000	Each Occurrence Limit

The Commercial General Liability Insurance Coverage shall be amended to include the addition of JEG and any other party which JEG has an obligation to indemnify as an additional insured party. The insurance to be provided to JEG shall apply to ongoing and completed operations, using endorsements CG 20 10 07 04 and CG 20 37 07 04 or equivalent endorsement forms providing identical additional insured coverage.

c. Business Automobile Insurance, including the following coverages:

- i. Owned Vehicles.
- ii. Hired Vehicles.
- iii. Non-owned Vehicles.
- iv. Each of the above listed coverages shall provide coverage in the following minimum limits of liability:

Combined Single limit	\$1,000,000	Per Occurrence
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The Automobile insurance shall be amended to include the addition of JEG and any other party which JEG has an obligation to indemnify as an additional insured party.

d. Excess Umbrella Liability Insurance

In addition to the coverages outlined above, Excess Umbrella Liability shall be maintained in effect with a minimum limit of \$5,000,000. Such coverage is to be excess over Article 16a(ii), Article 16b and Article 16c as identified above, unless such underlying coverages are written in the amount of \$6,000,000 or more.

e. Professional Liability Insurance

If Subcontractor's Work includes design responsibilities, subcontractor is required to maintain professional liability insurance with minimum limits of:

\$5,000,000 each claim and in the aggregate

For coverage associated with Articles 16a, 16b, 16c and 16d insurance provided by Subcontractor shall be primary and non-contributory and shall contain a waiver of subrogation to be endorsed to all policies in favor of JEG.

Before commencing performance of any Work on the Project, Subcontractor shall provide to JEG a certificate(s) of insurance in compliance with the above requirements, stating policy numbers, dates of expiration, and limits of liability thereunder, and including copies of the endorsements evidencing the addition of JEG and any other party which JEG has an obligation to indemnify as an additional insured party. All insurance provided by Subcontractor shall provide for thirty (30) days written notice to JEG prior to cancellation or any modification of any such insurance. In the event of cancellation for non-payment of a premium, Subcontractor shall notify JEG immediately in writing.

17. Use of JEG Tools and Equipment. Subcontractor must be authorized in writing by a JEG representative to use any hoist, scaffold, material, tools or equipment owned and/or furnished by Owner or JEG, and is subject to a charge or back-charge for its use. Subcontractor shall satisfy itself as to the safety and legal use of the above items to the same extent as if it were owned by and in the sole control of Subcontractor. Subcontractor assumes full responsibility for the use and safety of any JEG hoist, scaffold, material, tools or equipment, and shall defend, indemnify and hold harmless Owner and JEG for any claims and damages caused to, caused by or arising out of the use of the above items by Subcontractor, its agents, employees or subcontractors.

18. Waiver of Consequential Damages. Subcontractor shall waive all Claims against JEG for consequential, special, exemplary, incidental or indirect damages arising from or out of the Subcontract, including, but not limited to, damages for loss of business, loss of financing related to the Project, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, insolvency or other similar damages (whether such damages are characterized as direct or indirect), including for breach of contract or warranty, tort (including negligence, strict liability or otherwise). Similarly, Subcontractor shall obtain in another agreement from its subcontractors mutual waivers of consequential damages that correspond to the Subcontractor's waiver of consequential damages. The provisions of this article shall also apply to and survive termination of this Subcontract.

19. Changes in the Work.

a. JEG, without invalidating the Subcontract, may order extra work or make changes in the Work by altering, adding to, or deducting from, the Work by Change Order, Constructive Change Directive, or order for a minor change in the Work.

b. Change Order:

i. The Subcontractor shall not Claim, nor shall JEG have any liability to the Subcontractor for, any additional compensation for Work alleged to be an extra to that required by the Subcontract that is performed by the Subcontractor without a written Change Order executed by all parties to the Subcontract. All such work performed by the Subcontractor as extra work, or performed without first obtaining such written Change Order for the claimed extra work, conclusively and irrefutably shall be deemed to be part of the Work and required by the Subcontract.

ii. When Subcontractor receives a written request to make a change in the Work or performs what it claims is extra work, Subcontractor shall submit to JEG within seven (7) days, or as required by the JEG Contract, whichever is more stringent, its itemized estimate and proposal for such extra work or changes, including for both additions to, and deductions from, the Subcontract. The Subcontractor's itemized estimate and proposal shall include all amounts sought to be paid to the Subcontractor for the change in the Work or the extra work, and no exclusions, reservation of alleged rights to seek other or additional compensation, or other conditional or limiting terms shall be included in the Subcontractor's estimate or proposal. If any such conditional or limiting terms are included in the Subcontractor's estimate or proposal, the estimate or proposal may be accepted by JEG without such terms, and those terms shall have no legal force and effect and shall provide no

rights to the Subcontractor against JEG, including, but not limited to, any right to seek any compensation for performing the change in the Work or the extra work other than the amount expressly itemized in the estimate or proposal as accepted by the JEG.

c. Constructive Change Directive:

- i. A Constructive Change Directive shall be used in the absence of total agreement on the terms of a Change Order.
  - ii. Adjustments in the Contract Amount for any extra work or changes in the Work shall be determined by one or more of the following methods:
    1. By unit prices stated in the Subcontract or subsequently agreed to in writing by both JEG and the Subcontractor.
    2. By an estimate and lump sum proposal from the Subcontractor to which JEG and the Subcontractor have agreed in writing.
    3. Costs to be determined in a manner agreed upon by the parties and a mutually agreed fixed or percentage fee.
  - iii. If none of the three methods is agreed upon, the Subcontractor, provided it receives a written order as stated, shall proceed with performance of the extra work and/or change in the Work. In such case, the Subcontractor shall keep and present in such form as JEG may direct, a correct account of the cost actually paid by the Subcontractor to perform the extra work and/or the change in the Work, together with all reasonably necessary documentation to substantiate such costs. Upon request from JEG, the Subcontractor shall make its books and other accounting records available for review.
- d. JEG may make minor changes in the Work that do not involve or require any change in the Contract Amount or time, and not inconsistent with the purposes of the Work.

20. Claims for Additional Cost. No changes to the Work, the Contract Amount, the Project schedule(s) or other terms of the Subcontract are authorized unless approved in a written Change Order signed by an authorized JEG representative. No course of dealing or course of performance between the parties shall be the basis for an increase in the Contract Amount or an extension of the Project schedule(s). In the event that Subcontractor intends to Claim any increase in the Contract Amount as a result of any alleged change by JEG to the Work, Subcontractor shall give notice in writing to JEG within seven (7) days of the basis for the Claim, or as required by the JEG Contract, whichever is more stringent, of such change. Such notice from Subcontractor shall describe with reasonable detail the nature of such change and shall set forth in detail the alleged costs incurred by Subcontractor as a result of such change and the computation of the alleged increase to the Contract Amount that Subcontractor intends to Claim. Subcontractor's failure to provide timely notice of a Claim as required under this article is a full and complete waiver of its Claim. Pending a determination of the claimed adjustment, if any, Subcontractor shall proceed with its performance of the Work as changed. JEG shall not be obligated to pay Subcontractor a greater sum than JEG may recover under the JEG Contract for such increase to the Contract Amount claimed by Subcontractor resulting from such change. JEG shall have no further liability to Subcontractor of any type or amount with respect to such change.

21. Subcontractor's Warranties. Subcontractor represents and warrants to JEG, to JEG's successors and assigns, and to all parties to whom JEG has given warranties under the JEG Contract, that the Work performed by Subcontractor shall be: (a) free from all liens, security interests and other claims; (b) free from all defects in material or workmanship; (c) is suitable for its intended purpose and use; (d) shall perform properly its intended functions for a period of one (1) year (or such longer period of time that is required under the JEG Contract) from the later of the date on which all work of JEG under the JEG Contract is accepted as complete, or the date on which JEG is paid in full for all work performed by it under the JEG Contract; (e) of good quality and in conformance with the Subcontract; and (f) new as to all materials and equipment (unless otherwise specified in the Subcontract). This warranty shall be in addition to all warranties of the type and for the terms required under the JEG Contract, and Subcontractor agrees with respect to its Work to be bound by the terms of those warranties. On notice to Subcontractor that its Work has failed to comply with the requirements of any of the foregoing warranties or any other provision of the Subcontract, such Work shall be corrected promptly by Subcontractor at its sole and exclusive expense. If Subcontractor fails to fully and timely complete such warranty Work, JEG may complete the work and Subcontractor shall be liable to JEG for all costs and expenses incurred by JEG. Subcontractor shall indemnify, defend and hold JEG and Owner, harmless from any and all liability and expense, including without limitation, reasonable attorneys' fees, arising from, or in any way relating to, any failure of Subcontractor's Work to conform to the requirements of any applicable warranty or any other requirements of the Subcontract. The above warranties shall be in addition to any other warranties or remedies implied, required or provided by law. This indemnification obligation shall survive the termination of the Subcontract.

22. Termination for Default. In the event Subcontractor should become bankrupt, insolvent, fail to pay for materials or services for which it has received payment from JEG, make an assignment or arrangement for creditors, refuse or neglect or perform properly and diligently under the Subcontract, or fail to perform as required by the Subcontract or any other agreement between Subcontractor and JEG on any project, JEG shall notify Subcontractor in writing of the default(s) and, after five (5) days, JEG may at its option cease making any further payment to Subcontractor, terminate Subcontractor's right to proceed with all or part of the Subcontract, take possession of all materials, equipment and supplies and complete the remaining Work by such means as JEG sees fit, at the sole cost and expense of Subcontractor. JEG may recover from Subcontractor the total amount of any loss or damage incurred as a result of such default(s), including reasonable attorneys' fees, and deduct such amounts from payments otherwise due or to become due to Subcontractor. If the damages incurred as a result of such default(s) are in excess of the payments due to Subcontractor, then Subcontractor shall promptly pay the total amount of any such excess to JEG. Any termination of Subcontractor by JEG for default subsequently determined to have been wrongful or erroneous, shall be treated as a termination for convenience.

23. Termination for Convenience. JEG may terminate all or any part of the Subcontract for its sole convenience upon five (5) days written notice to Subcontractor specifying in reasonable detail the portions of the Work to be terminated under such notice. Upon notice of termination, Subcontractor shall immediately stop all Work including shipment of materials and cause its suppliers and/or subcontractors to cease their work identified in the termination notice. In the event of such termination, JEG's liability to Subcontractor shall be limited to the amount JEG is paid under the JEG Contract for Subcontractor's Work performed prior to termination. JEG shall have no other liability to Subcontractor for any type or amount from the date of termination, including lost profits. These rights of termination shall be in addition to, and shall include, any other rights of contract termination provided in the JEG Contract.

24. Clean Up. Subcontractor at its expense shall remove all rubbish, debris, and waste material caused by Subcontractor's performance of the Work. Such removal shall be performed to maintain the Project site in the condition required under the JEG Contract and to assure that no rubbish, debris or waste material from Subcontractor's performance of the Work creates any unsafe or unclean condition at the Project. In the event that JEG incurs any costs to clean and remove any rubbish, debris or waste material resulting from Subcontractor's performance of the Work, Subcontractor shall be liable to pay such costs to JEG.

25. Access to and Inspection of the Work. JEG may inspect any materials or assemblies being fabricated for performance of the Work at such locations where such fabrication is performed, and Subcontractor shall provide access for JEG to make such inspections at such locations. Subcontractor also shall provide access to all Work performed at the Project to facilitate inspection of the Work by JEG. No inspection of any of the Work by JEG shall relieve Subcontractor in any way of any responsibility or obligation of Subcontractor for performance of the Work in accordance with the Subcontract. Any Work requiring inspection or testing shall not be covered until such inspection and/or testing is complete and JEG has inspected such Work and examined the results of such tests. If Subcontractor covers all or any portion of such Work prior to inspection by JEG or examination of test results by JEG, the cost of uncovering the Work for inspection by JEG shall be paid by Subcontractor without any right of reimbursement. All Work determined as a result of such inspections and tests to have failed to comply with requirements of the Subcontract shall be corrected diligently and punctually by Subcontractor at its sole and exclusive expense, and Subcontractor shall be liable for all costs and expenses, including without limitation, reasonable attorneys' fees, caused by such failures of the Work to comply with the requirements of the Subcontract.

26. As-Built Drawings, Operation and Maintenance Manuals. Subcontractor shall keep an accurate record of the Work as actually constructed, and shall submit to JEG upon the completion of the Work and prior to final payment, completely corrected drawings, representing the as-built condition of the Work performed under the Subcontract in the form and format required by the JEG Contract. These "As-Built" drawings shall illustrate all piping, ductwork, conduit, wiring, all underground installations, and all deviations from the drawings and also shall include wiring diagrams. Subcontractor shall provide complete operating and maintenance instructions, manuals and other information for all architectural, electrical, mechanical, elevator equipment and systems installed and provided as part of the Work by the Subcontractor under the Subcontract. With the assistance of the Owner and/or contractor/construction manager and/or JEG, Subcontractor shall participate in the commissioning, check-out, start-up and operation of systems and equipment for readiness and confirmation that they operate as required by the Subcontract.

**27. Subcontractor's Compliance With Laws. In the performance of the Work and the obligations stated in, or created by, the provisions of the Subcontract, Subcontractor shall comply with all federal, state and local laws, including without limitation all rules, regulations, codes, ordinances and executive orders (collectively, "Laws"). Subcontractor's obligations under the Subcontract shall require compliance with all Laws, including without limitation all Laws governing equal employment opportunity, hiring, compensation and other employment conditions; all Laws governing health, safety and welfare of persons involved in any way with the Project; and all Laws governing the protection of the environment, the conservation of natural resources and the handling, disposal and/or transportation of hazardous materials. By acceptance of this Subcontract, the Subcontractor acknowledges and agrees that all applicable provisions of the Federal Acquisition Regulations (FAR) are hereby incorporated by reference with the same force and effect as if set forth in full text herein. Subcontractor represents and warrants that it has not been debarred or suspended from performing any federal contract work. The Subcontractor understands and agrees that all provisions as may be required by the terms of the JEG Contract, or by operation of law, or by applicable Laws shall apply, except as may be otherwise provided for in this Subcontract. The Subcontractor further agrees that it will comply with all the provisions of Executive Order 11246, as amended, and the rules regulations, and relevant orders of the Secretary of Labor. The Subcontractor also agrees that all other pertinent rules, regulations, and orders required under the terms of the JEG Contract are hereby incorporated by reference into this Subcontract with the same force and effect as if set forth in full text herein. The Subcontractor specifically affirms it shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.**

28. Subcontractor, Suppliers and Assignment. Promptly after execution of the Subcontract, Subcontractor shall provide JEG with a written list of any proposed subcontractors and suppliers it intends to use to complete its Work. If JEG has any objection to any proposed subcontractor or supplier, JEG shall notify the Subcontractor in writing. Any assignment or subcontract made by Subcontractor without JEG's consent shall be void and without legal force and effect. Subcontractor shall remain liable and responsible for full and punctual performance of all obligations of Subcontractor stated in, or created by, the provisions of the Subcontract. JEG shall have the right to direct Subcontractor to remove any employee, independent contractor or agent of Subcontractor from the Project and Work team. Upon receipt of written notice by JEG, Subcontractor shall remove the person(s) identified in the notice.

29. Review of Contract Documents and Project Conditions. Subcontractor warrants and represents that it has carefully reviewed all of the documents forming the Subcontract and the location where the Work is to be performed. From such review and examination Subcontractor agrees that it is familiar with, and has satisfied itself as to:

- a. The nature, location and amount of the Work;
- b. Subcontractor's access to the location(s) where the Work is to be performed;
- c. Subcontractor's ability to perform the Work for the Contract Amount;
- d. The quality, quantity and availability of labor, materials, equipment and other things required for Subcontractor's performance of the Work; and
- e. The climate and other conditions of the Project that will, or may be, encountered in Subcontractor's performance of the Work.

Subcontractor represents that all costs and expenses to be incurred by it to perform the Work in accordance with the Subcontract under the foregoing conditions are included in the Contract Amount.

30. Integration and Waiver. The Subcontract constitutes the entire, fully integrated agreement between Subcontractor and JEG and all prior understandings, agreements or representations are superseded by the Subcontract. Subject to Article 19, no modification or amendment of the Subcontract shall be effective, and neither Subcontractor nor JEG shall claim that the Subcontract has been modified or amended, unless such modification or amendment is in writing and signed by an officer of JEG. No right or obligation created by the Subcontract shall be deemed waived, and no party to the Subcontract shall claim that such waiver has occurred, unless such waiver is in writing and signed by the party claimed to have waived such right or obligation, and if such party is JEG, such writing is signed by an officer of JEG.

31. Dispute Resolution. In the event of a Claim by or between JEG and Subcontractor arising out of the Subcontract, JEG and Subcontractor shall endeavor to reach resolution through good faith direct discussions between the parties' representatives, who shall possess the necessary authority to resolve such Claim. Such discussions shall be a condition precedent to the commencement of any legal proceeding by the parties arising out of the Subcontract, but only after JEG has exercised its sole right and option to determine whether the Claim shall proceed in an arbitration proceeding or in litigation.

If the Claim remains unresolved after good faith direct discussions between the parties' representatives, the Claim shall, at JEG's sole option, be decided by either arbitration using the current Construction Industry Arbitration Rules of the American Arbitration Association or in litigation. The award rendered by an arbitrator shall be specifically enforceable in accordance with the governing arbitration law, and a court of competent jurisdiction may enter a judgment on the award of the arbitrator. The costs of any dispute resolution processes shall be borne by the non-prevailing party, as determined by the adjudicator of the Claim.

If any dispute exists between JEG and the other party to the JEG Contract that is to be resolved by arbitration and involves any of the Work performed by Subcontractor, Subcontractor shall submit such dispute concerning its Work to binding arbitration in accordance with the JEG Contract providing for arbitration under which JEG is obligated to resolve such dispute. Subcontractor shall be made a party to the arbitration under the JEG Contract to resolve such dispute concerning the Work performed by Subcontractor. If Subcontractor cannot be made a party to such arbitration, because a party other than JEG has objected to such procedure or for any other reason, Subcontractor shall arbitrate separately with JEG the dispute concerning any of the Work performed by Subcontractor, and in such arbitration the same arbitrator(s) as used in the arbitration under the JEG Contract shall be used to decide the dispute between Subcontractor and JEG. The rules and procedure governing such arbitration shall be the same as the rules and procedure used in the arbitration under the JEG Contract. The award rendered by the arbitrator(s) shall be specifically enforceable in accordance with the governing arbitration law, and a court of competent jurisdiction may enter a judgment on the award of the arbitrator(s). Pending resolution of a Claim, Subcontractor shall continue diligent performance of the Work.

32. Independent Contractor. JEG and Subcontractor agree that the contractual relationship between JEG and Subcontractor is one solely of an independent contractor in all respects and that the Subcontract does not in any way create a partnership, joint venture or any other relationship between JEG and Subcontractor other than the contractual relationship as specified in this Subcontract.

33. Enforcement. If any provision of this Subcontract is determined to be invalid or unenforceable, the remainder of that provision and all other provisions shall remain valid and enforceable.

34. Choice of Law and Venue. The rights and obligations of JEG and Subcontractor under the Subcontract shall be construed and governed in accordance with the laws of the State of Michigan, excluding the conflicts of law principles. Any action authorized by JEG to enforce any rights or obligations under the Subcontract shall be commenced only in a state or federal court of the State of Michigan. All arbitrations shall be administered by the American Arbitration Association and all hearings shall be held in metropolitan Detroit.

35. Safety. Although JEG may have safety personnel on the Project site to provide guidance on safety related issues, Subcontractor shall remain solely responsible for the health and safety of its employees, agents, subcontractors and other persons within or near the Project site. Subcontractor shall take all necessary and prudent safety precautions with respect to its Work and shall comply with all safety programs and measures initiated by JEG, any contractor and Owner and with all applicable Laws, ordinances, rules, and regulations. Subcontractor shall exercise extreme care in carrying out the Subcontract and Work, which involves hazardous substances. In the event of any incident on the Project where property is damaged, an injury occurred or there was a potential for injury to any person on the Project, Subcontractor shall notify JEG immediately in writing of the nature of the injury or incident.

36. Audit Rights. The Cost Records shall be made available to JEG upon request and may be examined, copied and/or audited by JEG or its authorized representative at any reasonable time. Subcontractor shall maintain the Cost Records for a minimum of three (3) years from Owner's acceptance of the Project, or as required by the JEG Contract, whichever is greater.

37. Incorrect Invoicing. JEG reserves the right to charge Subcontractor U.S. \$150.00 for each invoice error resulting from the failure of the Subcontractor to comply with the invoicing instructions referenced in the Subcontract. Examples of invoicing errors include, but are not limited to, failing to reference JEG's Job Number and Subcontract number on the invoice.