

SUBCONTRACT & INDEMNITY AGREEMENT No:

THIS AGREEMENT ("Subcontract") is made and entered effective this _____ day of _____ by and between **TRIBBLE & STEPHENS CONSTRUCTORS, LTD.**, a Texas limited partnership ("T&S"), and _____ ("Subcontractor"), to perform part of the Work on the following Project:

PROJECT:

OWNER:

SAMPLE

ARCHITECT:

ARTICLE 1

SCOPE OF WORK

1.1 T&S employs Subcontractor as an independent contractor, to perform the following part of the Work (as defined in the Contract Documents) which T&S has contracted with Owner to provide on the Project:

Subcontractor agrees to perform such part of the Work (hereinafter called "Subcontractor's Work") under the general direction of T&S and subject to the final approval of the Architect/Engineer or other specified representative of Owner, in accordance with and reasonably inferable from the Contract Documents. Subcontractor will furnish all of the labor and materials, along with competent supervision, shop drawings, and samples, tools, equipment, protection, hoisting, scaffolding, and permits which are necessary for such performance.

1.2 (a) The Contract Documents are: Attachments

(b) Subcontractor binds itself to T&S for the performance of Subcontractor's Work in the same manner as T&S is bound to Owner for such performance under T&S' contract with Owner. T&S' contract with Owner, excluding financial data, and all other Contract Documents listed above have been made available to and read by Subcontractor. The Contract Documents, to the extent not inconsistent with this Subcontract, are incorporated herein by reference for all purposes. In the case of any conflict between this Subcontract and the Contract Documents, Subcontractor shall be bound by the more stringent requirement as determined by T&S, in its sole discretion.

ARTICLE 2

PAYMENTS

2.1 (a) T&S agrees to pay to Subcontractor, for the satisfactory completion of Subcontractor's Work, the sum of _____ in monthly payments of ninety percent (90%) of the Subcontractor's Work performed in any preceding month, in accordance with estimates prepared by Subcontractor and approved by T&S, Owner, and any other party whose approval is required by the Contract Documents, and in accordance with the conditions set forth below. Subcontractor's partial pay requests shall be submitted on T&S forms and in accordance with the approved Schedule of Values with such additional detailed or substantiating information as may be requested by T&S. Payments made on account of materials not incorporated in Subcontractor's Work, but delivered and suitably stored at the site, or at some other bonded location agreed upon in writing, shall be in accordance with the terms and conditions of the Contract Documents. Subcontractor will provide monthly completed lien waivers and releases from Subcontractor, sub-Subcontractors, and Suppliers, on T&S forms amounting to one hundred percent (100%) of the partial payment that was paid to Subcontractor for the previous month. Failure to provide such forms will delay payment to Subcontractor. Payment of the approved portion of Subcontractor's monthly estimate shall be conditioned upon receipt by T&S of payment from Owner. Approval and payment of Subcontractor's monthly estimate is specifically agreed not to constitute or imply acceptance by T&S or Owner of any portion of Subcontractor's Work.

(b) Notwithstanding anything contained herein and/or contained within the Contract Documents to the contrary, all payments to Subcontractor shall be made by T&S solely out of funds actually received by T&S from the Owner, and receipt of payment by T&S from the Owner shall be an express CONDITION PRECEDENT to payment by T&S to Subcontractor for any and all of Subcontractor's Work. Subcontractor acknowledges that it is sharing, to the extent of payments to be made to Subcontractor, in the risk that Owner may fail to make one or more payments to T&S for all or a portion of Subcontractor's Work. If the Owner has not paid T&S, for any reason whatsoever, including, without limitation, the Owner's financial inability to pay or some other reason not related to Subcontractor, Subcontractor agrees that T&S shall not be liable for payment, nor be indebted, to Subcontractor. Subcontractor assumes the credit risk of Owner and agrees that it has relied solely on Owner's credit and not that of T&S. Any surety of T&S shall be entitled to the same defenses of non-payment by Owner against the Subcontractor.

2.2 (a) On the 27th day of each month Subcontractor shall present to T&S a statement of the Subcontractor's Work done through the 25th day of the month, which statement shall be approved by T&S. ON THE FIRST DRAW REQUEST, SUBCONTRACTOR SHALL NOT RECEIVE MORE THAN 25% OF THE TOTAL CONTRACT AMOUNT WITHOUT FULL RELEASES FROM ALL OF ITS SUPPLIERS.

(b) In the event Subcontractor does not submit to T&S such monthly estimates by the 27th day of each month, then T&S may, at its option, include in its monthly estimate to Owner for Subcontractor's Work performed during the preceding month, such amount as it may deem proper for the Subcontractor's Work for the preceding month and Subcontractor agrees to accept such approved portion thereof in lieu of monthly payment based upon Subcontractor's estimate.

2.3 In the event it appears to T&S that the labor, material, and other bills incurred in the performance of Subcontractor's Work are not being currently paid, T&S may take such steps as T&S deems necessary to ensure that the money paid with any progress payment will be utilized to pay such bills. Failure to timely pay such expenses shall constitute an event of default with the remedies provided in Article 9 below.

2.4 Final payment shall be paid to Subcontractor upon the receipt by T&S of funds from the Owner and upon acceptance and approval of Subcontractor's Work by Owner, or Owner's representative, and T&S as conforming to the requirements of the Contract Documents. Consent of Subcontractor's surety will be required prior to final payment. Subcontractor will be required to furnish to T&S evidence (including releases of lien when required by T&S) that payments for all labor, including fringe benefits and other payments due under collective bargaining agreements, have been made, and all subcontractors, materialmen, and suppliers have been paid for all work performed or supplies furnished on the Project and that they are waiving their lien rights and bond claims upon final payment of the agreed contract balance due.

2.5 T&S may deduct from any amounts due or to become due to Subcontractor any sum or sums owing by Subcontractor, whether pursuant to this Subcontract or any other agreement, or relationship between T&S and Subcontractor; and in the event of any breach by Subcontractor of any provision or obligation of this Subcontract or any other agreement, or in the event of the assertion by other parties of any claim or lien against Owner, T&S, T&S' surety, or the premises upon which Subcontractor's Work was performed, which claim or lien arises out of Subcontractor's performance of this Subcontract, T&S shall have the right, but is not required, to retain out of any payments due or to become due to Subcontractor, an amount sufficient to completely protect T&S from any and all loss, damage, or expense, including legal fees and legal expenses therefrom, until the claim or lien has been adjusted by Subcontractor to the satisfaction of T&S. This paragraph shall be applicable even though Subcontractor has posted a full payment and performance bond.

2.6 T&S may withhold payments for the unpaid balance of the Subcontract sum if there is reasonable doubt that the Subcontractor's Work will be completed on schedule and in accordance with the Contract Documents. T&S agrees to convey such concerns, in writing, to Subcontractor prior to withholding any funds.

2.7 All sums tentatively earned by Subcontractor by the partial or complete performance of Subcontract Work and any balance of unearned Subcontract funds shall constitute a fund for the purpose of:

(a) first, full completion of the Subcontract Work in accordance with the Contract Documents;

- (b) second, payment of any backcharges or claims due T&S from Subcontractor, for any project; and
- (c) third, payment to the sub-Subcontractors, laborers, material and service suppliers of Subcontractor who have valid and enforceable mechanic's lien claims or valid and enforceable bond claims (if the Project is bonded),

and such tentative earnings shall not be due or payable to Subcontractor or anyone else claiming in Subcontractor's place and stead, including, but not limited to, a trustee in bankruptcy, receiver, or assignee of Subcontractor, until and unless such Subcontract Work is fully and satisfactorily completed and such persons are fully paid and satisfied. T&S may demand written evidence of Subcontractor's capability to perform and of such payments to such persons by Subcontractor at any time.

2.8 Any payments due Subcontractor or from Subcontractor shall be due and payable at the offices of T&S in Houston, Harris County, Texas.

ARTICLE 3

PROSECUTION OF WORK

3.1 Time is of the essence. Within ten (10) days after the execution of this Subcontract, Subcontractor shall provide T&S scheduling information, including durations, planned crew sizes, planned procurement dates, planned submission dates of required shop drawings, product data, and samples for Subcontractor's Work (including the activities of sub-Subcontractors, vendors, and suppliers). T&S shall then prepare the Schedule of the Work and, as may be necessary, revise such Schedule with the cooperation of Subcontractor as Subcontractor's Work progresses. Subcontractor acknowledges that revisions may be made in such Schedule and agrees to make no claim for acceleration or delay by reason of such revisions, so long as such revisions are of the type normally experienced in work of this scope and complexity. In the event Subcontractor is unable to maintain progress in accordance with the Project Schedule by reason of events for which extensions of time are permitted in the Contract Documents, Subcontractor's time for completion shall be extended for a reasonable, mutually agreed upon time; provided that a time extension is given by Owner to T&S, and further provided that notification of delay is given as provided herein. This time extension shall be the sole remedy for such delays. Subcontractor shall not be entitled to recover damages from T&S or its surety for any delays if T&S is not fully compensated by Owner.

3.2 Within ten (10) days after execution of this Subcontract (or at an earlier time if required by the Contract Documents), Subcontractor shall furnish T&S with its list of proposed sub-Subcontractors, equipment, and material suppliers, along with the description of the corresponding item of Subcontractor's Work. Subcontractor shall bind its sub-Subcontractors, equipment, and material suppliers to the requirements set forth in this Subcontract, the Schedule of Work, and the Contract Documents. In those instances where the initially accepted supplier fails to submit shop drawings, product data, or samples which meet the specifications of the Contract Documents, the additional costs (price increases and other costs due to delays in placing order) to furnish the specified equipment

and/or material shall be borne solely by Subcontractor.

3.3 (a) Subcontractor shall prosecute Subcontractor's Work in a prompt and diligent manner in accordance with the Schedule of Work without hindering the Work of T&S or any other Subcontractor. If work or property of others is hindered, delayed, or damaged by Subcontractor, Subcontractor shall pay for all costs and damages incurred by such other party (including T&S) and will cause all such damage to be corrected to the satisfaction of and without cost to T&S or Owner. Should any Subcontractor sustain any loss through (i) any wrongful or negligent act or omission of any other Subcontractor, or (ii) failure of any Subcontractor to perform its contractual undertakings, the Subcontractor so affected shall have no claim or cause of action against T&S, the Owner, or the Property, and the Subcontractor's sole recourse shall be against the responsible Subcontractor to recover any and all loss sustained. The phrase "act or omission" as used herein shall be defined to include, but shall not be limited to, any unreasonable interruption or delay caused by any such Subcontractor.

(b) Subcontractor acknowledges that Owner may employ other contractors to work upon the Project site or adjacent sites and that Subcontractor will have the duty to coordinate Subcontractor's Work with that of such other contractors, their suppliers and Subcontractors (hereafter collectively "Other Contractors"). Should other Subcontractors or suppliers of T&S, or Other Contractors, delay, damage, or disrupt Subcontractor's Work, Subcontractor specifically waives any claim against T&S, its surety, or Owner, for any resulting damages, other than time extensions, and will look exclusively to those Subcontractors, suppliers, or Other Contractors who have caused the damage for the satisfaction of its claim for any and all damages. Should Subcontractor delay the work or damage the work or equipment of other Subcontractors or suppliers of T&S, or that of Other Contractors or Owner, in addition to and without waiving any other indemnity contained in this Subcontract, Subcontractor and its surety will indemnify and hold T&S and its surety harmless from any claims by any of said parties, including costs, expenses, and attorneys' fees incurred by T&S.

(c) If the execution and completion of Subcontractor's Work depends upon, or is sequential to work of T&S, its Subcontractors and suppliers, or Other Contractors, Subcontractor shall inspect and measure such other Work as soon as the progress thereof will permit and promptly report to T&S, in writing, any discrepancies or deficiencies therein which render same unsuitable for the reception of Subcontractor's Work. Failure to so inspect or report shall constitute Subcontractor's acceptance of such other work as fit and proper for the reception of its Work, except as to latent defects in such other work, and Subcontractor shall be liable for all damages incurred as a result of any such failure to so inspect and report.

3.4 Subcontractor shall be responsible for and will prepare for performance of Subcontractor's Work, including, without limitation thereto, preparing shop drawings, taking samples and performing tests, measuring field dimensions, determining labor requirements, and ordering materials as required to meet the Schedule of Work. Subcontractor shall notify T&S when portions of Subcontractor's Work are ready for inspection.

3.5 Subcontractor shall submit a Schedule of Values to T&S for review and approval prior to

submitting the first application for payment. The Schedule shall be itemized by general areas, specific large pieces of equipment, and/or a similar method which will accurately indicate the value of the Subcontractor Work performed or services rendered.

3.6 Subcontractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Subcontractor's Work. The superintendent shall be approved by T&S and shall not be changed except with the consent of T&S, unless the superintendent provided proves to be unsatisfactory to Subcontractor or T&S or ceases to be in Subcontractor's employ. The superintendent shall represent Subcontractor and all communications given to the superintendent shall be binding as if given to Subcontractor. The superintendent shall attend all coordination, scheduling, and safety meetings where Subcontractor's Work is involved and as required by T&S.

3.7 T&S shall establish control lines and bench marks as required. Any further layout necessary for completion of the Subcontract is the responsibility of Subcontractor. Subcontractor shall lay out Subcontractor's Work from control points supplied by T&S and be responsible for its accuracy and the placement of all inserts, embedments, grounds, and blockouts, etc., as required to complete Subcontractor's Work. Subcontractor shall be responsible for replacement, correction, or repair of such items that are improperly placed if it can be shown that original control Work was accurately performed.

3.8 Subcontractor shall be responsible for supplying its own crew with an adequate supply of drinking water, ice, and cups.

3.9 If T&S agrees to allow Subcontractor to use T&S' tools or equipment, Subcontractor shall do so at its sole risk and shall hold T&S harmless from any claims and/or expenses, including any claims by any T&S personnel who are used by Subcontractor, and including, but not limited to, attorneys' fees and court costs, resulting from the use of such tools and equipment by Subcontractor, regardless of whether T&S operated such tools and equipment. Subcontractor agrees to maintain such equipment or tools in good working condition and perform, at Subcontractor's sole expense, any necessary repairs before returning such borrowed equipment and/or tools.

3.10 Any inspection or review by T&S of Subcontractor's Work or submittals shall not relieve Subcontractor from its obligation to perform Subcontractor's Work in accordance with the Contract Documents.

3.11 Subcontractor will furnish periodic progress reports of Subcontractor's Work as mutually agreed, including the progress of materials or equipment to be provided under this Subcontract that may be in the course of preparation or manufacture.

3.12 Subcontractor shall maintain at the site, one copy of all drawings, specifications, addenda, approved shop drawings, change orders, and modifications, in current order and catalogued to record all changes relating to its Work made during the Project. Subcontractor shall keep T&S informed of all such changes by submitting to T&S a written description of the change before such change is to be

made.

3.13 If the Contract Documents require a final set of record drawings and operating and maintenance manuals upon completion of the Project, T&S must receive these materials before Subcontractor's final payment can be processed.

3.14 Subcontractor shall cooperate with T&S and Subcontractors or Other Contractors whose work may interfere with Subcontractor's Work and shall participate in the preparation of coordinated drawings and work schedules for areas of congestion, specifically noting and advising T&S of any interference in work schedules by Subcontractors.

3.15 Subcontractor shall keep the building and premises or the site reasonably clear of debris produced by the performance of Subcontractor's Work. If Subcontractor fails to comply with this paragraph, within twenty-four (24) hours after receipt of notice of non-compliance from T&S, T&S may perform such necessary clean-up and deduct the cost from any amounts due to Subcontractor.

3.16 Subcontractor shall give adequate notice pertaining to the Work of Subcontractor to proper regulatory authorities and shall secure and pay for all necessary licenses, permits, governmental fees, and inspections to carry on Subcontractor's Work and shall furnish a copy of said permits, licenses, receipts of fees paid, and inspection reports to T&S.

3.17 Subcontractor shall comply with all federal, state, and local laws, rules, regulations, and orders, including, but not limited to, social security laws, unemployment compensation laws, worker's compensation laws and safety laws insofar as applicable to the performance of this Subcontract. It shall pay all taxes applicable, including, but not limited to, sales and/or use taxes, to the performance of Subcontractor's Work as required by law and the Contract Documents. Subcontractor shall also maintain its' own safety program for compliance with current laws and agrees to maintain its' safety program at a level at least as good as T&S' safety program with regard to OSHA regulations. Subcontractor acknowledges that a copy of the written T&S safety program has been made available for review. Subcontractor shall not wait for or expect direction from T&S for compliance with said statutes, rules, regulations, and orders.

3.18 Subcontractor will not assign this Subcontract nor subcontract the whole or any part of Subcontractor's Work to be performed hereunder without the prior written consent of T&S, with the exception of those sub-Subcontractors listed by Subcontractor and furnished to T&S as provided herein.

3.19 In the case of minor repairs to newly finished interior surfaces (not covered by property insurance), the cost of said repairs shall be allocated to the Subcontractors in proportion to the manpower employed during the period when damage occurred.

3.20 Subcontractor shall carry on Subcontractor's Work and maintain its progress pending the resolution of any dispute and/or arbitration proceedings.

3.21 (a) Subcontractor represents and warrants that it is in compliance with and agrees it will remain in compliance with the provisions of the Immigration Reform and Control Act of 1986, including, but not limited to, the provisions of that Act prohibiting hiring and continuing to employ unauthorized aliens, requiring verification and recordkeeping with respect to identity and eligibility for employment, and prohibiting discrimination on the basis of national origin, United States citizenship, or impending citizenship status.

(b) In addition to and without waiving any other indemnity provision in this Subcontract, Subcontractor agrees to indemnify and hold T&S harmless against any expense, loss, fine, penalty, or liability of any kind incurred by T&S as a result of any failure by Subcontractor to comply with any of the provisions of the Immigration Reform and Control Act of 1986 or the regulations promulgated thereunder. This provision shall be included in any contract let by Subcontractor for any of Subcontractor's Work.

ARTICLE 4

CHANGES IN THE WORK

4.1 T&S and Subcontractor agree that T&S may add to or deduct from the amount of Subcontractor's Work, and any changes so made in the amount of work involved, or any other parts of this Subcontract, shall be by a written amendment hereto setting forth in detail the changes involved and the value thereof which shall be mutually agreed upon between T&S and Subcontractor. Subcontractor agrees to proceed with Subcontractor's Work as changed when so ordered in writing by T&S so as not to delay the progress of Subcontractor's Work, and pending any determination of the value thereof, unless T&S first requests a proposal of cost before the change is effected. If T&S requests a proposal of cost for a change, Subcontractor shall promptly comply with such request.

4.2 Subcontractor hereby expressly waives any claim for compensation for extra Work or materials or changes of any kind in Subcontractor's Work, regardless of whether the same was ordered by T&S or any of its agents or representatives, unless a written Change Order therefore has been issued by T&S. If extra Work was ordered by T&S, and Subcontractor performed same but did not receive a written Change Order, Subcontractor shall be deemed to have waived any claim for extra compensation or an extension of time, regardless of any written or verbal protests or claims by Subcontractor. Subcontractor shall be responsible for any costs incurred by T&S for changes of any kind made by Subcontractor that increase the cost of Subcontractor's Work or the Work for either T&S or other Subcontractors when Subcontractor proceeds with such changes without a written order therefore.

4.3 Without waiving the requirements of paragraph 4.2, Subcontractor agrees that to the extent Subcontractor may be entitled to claim compensation or an extension of time for additional services rendered or materials furnished by Subcontractor to T&S, valid notice must be given to T&S prior to the furnishing of the services or material or, if such notice is impractical because of an emergency, written notice of the claim therefore must be given by Subcontractor to T&S not later than the last day

of the calendar month following that month in which the claim originated, with the amount of the claim to be given in writing by Subcontractor as soon as practicable or at an earlier time, if required by the Contract Documents. Failure to meet the foregoing requirements shall constitute a waiver by Subcontractor of any such claim and stop Subcontractor forever from recovering any additional time or compensation, or both, for such claim.

4.4 Subcontractor will make all claims for extra compensation and extensions of time to T&S promptly in accordance with this Article and consistent with the Contract Documents. Subcontractor agrees that the time listed in the Contract Documents within which notice must be given for a claim or any appeal is reduced by five (5) days for all notices submitted by Subcontractor. T&S agrees to pursue reasonable claims submitted by Subcontractor against Owner under the provisions of the Contract Documents. Subcontractor shall be responsible for preparation of the claims and for all legal and other costs incurred by T&S.

4.5 Subcontractor shall work overtime or extra shifts to overcome any delays and shall be reimbursed for overtime only if directed, in writing, by T&S for reasons other than delays caused by or to Subcontractor. Reimbursement shall be based on hours shown on daily time sheets which have been submitted to, and approved by, T&S. Only the premium portion of such approved overtime, exclusive of any markups for overhead and/or fee, shall be considered for reimbursement.

4.6 Notwithstanding any provision contained in the Subcontract to the contrary, T&S shall not be liable to Subcontractor for delay to Subcontractor's Work by the act, neglect, or default of the Owner, T&S, action of workmen or others, or any cause beyond T&S' control. In such event, Subcontractor agrees that time extensions shall be its sole remedy for any such delays and Subcontractor expressly waives all monetary claims for delay damages. However, notwithstanding the foregoing, should the Owner compensate T&S for any delay damages which are otherwise precluded by the foregoing, Subcontractor shall be entitled to its pro rata portion thereof. Actual receipt by T&S of such delay damages is a CONDITION PRECEDENT to T&S' obligation to pay Subcontractor.

ARTICLE 5

INSURANCE AND INDEMNITY

5.1 Prior to starting Subcontractor's Work, Subcontractor shall procure and maintain in force Worker's Compensation Insurance and Employer's Liability Insurance in full compliance with the laws of the state in which Subcontractor's Work under this Subcontract is performed; Commercial General Liability Insurance with contractual coverage; Automobile Liability Insurance, including owned, non-owned, and hired automobile coverage; and, such other insurance, to the extent required by the Contract Documents for Subcontractor's Work.

5.2 Subcontractor's Commercial General and Automobile Liability Insurance, as required by Paragraph 5.1, shall be written for limits of liability not less than the following:

- (a) Worker's Compensation and Employer's Liability

- (1) Statutory Workmen's Compensation limits for all states in which operations are conducted;
- (2) Employer's Liability with a limit of \$1,000,000.00
- (b) Public Liability other than Automobile
 - (1) Form to include coverage for operations, products and/or completed operations and contractual liability specifically including the provisions of paragraph 5.7 below, including coverage for explosion, collapse of buildings, and underground damage, if applicable;
 - (2) Limits of Liability:
 - Combined Bodily Injury and Property Damage: \$1,000,000.00 each occurrence
 - General Aggregate: \$2,000,000.00
 - Products-Completed Operations Aggregate: \$1,000,000.00
 - Personal and Advertising Injury: \$1,000,000.00
- (c) Automobile Liability
 - (1) Form to include coverage for all owned, non-owned, or hired automobiles
 - (2) Limits of Liability:
 - Combined Bodily Injury and Property Damage Liability: \$1,000,000.00
- (d) Excess Liability Insurance:
 - Policy written in the amount of \$1,000,000.00 in excess of the underlying limits of liability

5.3 Coverage shall be written on a Commercial General and Automobile Liability form and shall include contractual liability insurance as applicable to Subcontractor's obligations under Paragraph 5.7. Coverage shall also include the perils of explosion, collapse, and underground liability (XCU); Independent Contractor's Coverage; Personal Injury (Agreements A, B, and C) including coverage for suits brought by employees of Subcontractor; Broad Form Property Damage including Completed Operations, and Completed Operations insurance. All coverages to be provided by an insurer with no less than an A- rating by A.M. Best. Completed Operations insurance shall remain in effect for ten (10) years after substantial completion of the Project. T&S shall be added as an additional named insured under Subcontractor's Commercial General Liability Policy. The following endorsement forms shall be incorporated into such policies: (a) Additional Insured (CG 20 10 10 01 and CG 20 37 10 01) and (b) Waiver of Subrogation (CG 24 04 10 93).

5.4 Commercial General Liability Insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability Policy.

5.5 The foregoing policies shall contain provisions that coverages afforded under the policies will be primary and non-contributory with any insurance carried by the Owner or T&S and will not be cancelled or not renewed until at least thirty (30) days prior written notice has been given to T&S. Certificates of Insurance acceptable to T&S naming T&S as an additional named insured shall be filed with T&S prior to the commencement of Subcontractor's Work.

5.6 T&S and Subcontractor waive all rights against each other and against Owner, the Architect/Engineer, separate contractors, and all other Subcontractors for damages caused by fire or other perils to the extent reimbursed by Builder's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance. Subcontractor shall be solely responsible for any deductible payment due pursuant to any insurance policy covering the Work.

5.7 (a) Subcontractor shall fully protect, indemnify and defend T&S, Owner, and Architect, and all of their agents, officers, and employees, and hold them harmless from and against any and all claims, demands, liens, damages, causes of action, liabilities of any and every nature whatsoever, losses and expenses, including, but not limited to, attorneys' fees and court costs, arising in any manner, directly or indirectly, out of or in connection with, or in the course of, or incidental to any of Subcontractor's Work and obligations as provided in the Contract Documents, including any extra work (regardless of cause or of any concurrent or contributing fault or negligence of T&S, Owner, or Architect, or any of their agents, officers, or employees), or any breach of or failure to comply with any of the provisions of this Subcontract or the Contract Documents by Subcontractor.

(b) Without waiving and in addition to Section 5.7(a), Subcontractor shall fully protect, indemnify, and defend T&S, Owner, and Architect, and all of their agents, officers, and employees, and hold them harmless from and against any and all claims, demands, causes of action, damages, and liabilities for injury to or death of Subcontractor, or any one or more of Subcontractor's employees or agents, or any Subcontractor or supplier of Subcontractor, or any employee or agent of any such Subcontractor or supplier, or for the destruction of tangible property (other than Subcontractor's Work itself), including the loss of use resulting therefrom, arising in any manner, directly or indirectly, out of or in connection with or in the course of or incidental to any of Subcontractor's Work or operation(s) of Subcontractor or T&S, Owner, or Architect, or any of their agents, officers, or employees, or any other contractor or Subcontractor or party, or otherwise in the course and scope of their employment, AND REGARDLESS OF CAUSE OR OF ANY FAULT OR NEGLIGENCE OF T&S, OWNER, OR ARCHITECT (OR ANY OF THEIR AGENTS, OFFICERS, OR EMPLOYEES) WITHOUT REGARD OF CAUSE OR OF ANY CONCURRENT OR CONTRIBUTING FAULT OR NEGLIGENCE, WHETHER SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE.

5.8 In any and all claims against T&S or any of its agents or employees by any employee of Subcontractor, anyone directly or indirectly employed by it, or anyone for whose acts it may be liable, the indemnification obligation under Paragraph 5.7 shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Subcontractor under any worker's compensation acts, disability benefits acts, or other employee benefit acts.

5.9 The obligations of Subcontractor under Paragraph 5.7 shall not extend to the liability of the Architect, his agents, or employees, arising out of the (i) preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications; or (ii) giving of or failure to give directions or instructions by the Architect, his agents or employees; provided, such giving or failure to give is the primary cause of the injury or damage.

5.10 T&S and Subcontractor agree that Subcontractor's obligation to indemnify and hold harmless

the indemnities is a separate and distinct obligation of Subcontractor for which T&S and Subcontractor have specifically negotiated and bargained. As consideration for such obligation, T&S shall pay Subcontractor the additional sum of One Hundred and No/100 Dollars (\$100.00), which consideration shall be separate from and in addition to all other sums to be paid by T&S pursuant to the terms of the Subcontract. This consideration for the indemnity-hold harmless obligation of Subcontractor shall be due upon the execution of the Subcontract.

ARTICLE 6

PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

A Performance Bond and a Labor and Material Payment Bond shall be furnished in the full amount of this Subcontract, if required by T&S. This obligation shall continue throughout the Subcontract and may be required at any time during the performance of Subcontractor's Work by a change under Article 4. T&S shall be paid by the surety any legal and court costs T&S incurs in the enforcement of its rights under said bonds.

ARTICLE 7

WARRANTY

7.1 Subcontractor agrees to promptly make good, without cost to Owner or T&S, any and all defects due to faulty workmanship and/or materials which may appear within the guarantee or warranty period so established in the Contract Documents and if no such period be stipulated in the Contract Documents, then such guarantees shall be for a period of one year from the date of completion and acceptance of the Project by Owner. Receipt by T&S of all guarantees or warranties stipulated by the Contract Documents is required prior to processing Subcontractor's final payment. This warranty shall be in addition to all other warranties and remedies, expressed or implied, under the law and the Contract Documents.

7.2 (a) Notwithstanding any other term or provision contained herein to the contrary, and in accordance with Tex. Civ. Prac. & Rem. Code § 16.009(e)(1), Subcontractor and T&S expressly understand, agree and accept that for the purpose of calculating the ten (10) year period in § 16.009, the Date of Substantial Completion of Subcontractor's Work shall be the same date as the Date of Substantial Completion for the Project.

(b) Subcontractor further understands, accepts and agrees that if any person or entity brings suit for damages for any claim arising out of an alleged defective or unsafe condition of the Project, or an alleged deficiency in the construction or repair of the Project, which may be covered by the indemnification agreements specified above, and if a court of competent jurisdiction determines that the Date of Substantial Completion of Subcontractor's Work is not the same date as the Date of Substantial Completion of the Project, in spite of the parties' agreement in (a) above, Subcontractor hereby waives and relinquishes any right it may have to assert a defense based upon Subcontractor's

Date of Substantial Completion being different than the Date of Substantial Completion for the entire Project, against any action brought by T&S against Subcontractor to enforce the terms and provisions of the indemnification agreements contained in the Subcontract.

ARTICLE 8

CONTRACTOR'S OBLIGATIONS

8.1 T&S agrees to be bound to Subcontractor by all the obligations that Owner assumes to T&S under the Contract Documents and by all provisions thereof affording remedies and redress to T&S from Owner insofar as applicable to this Subcontract.

8.2 Upon request, T&S will give Subcontractor written authorization to obtain directly from the Architect/Engineer or Owner's authorized agent, evidence of the amount and percentage of completion certified on its account.

8.3 T&S shall make no demand for liquidated damages in any sum in excess of the amount specifically named in this Subcontract or the Contract Documents. Liquidated damages shall not be assessed for delays not caused by Subcontractor. Liquidated damages, when assessed, shall not exceed Subcontractor's proportionate share of the responsibility for such delay. This provision does not preclude any claim T&S may have for direct damages under law.

8.4 Subcontractor will furnish those temporary facilities and services required by Subcontractor, except for those to be provided by T&S. Adequate storage areas, if available, will be allocated by T&S for Subcontractor's materials and equipment during the course of Subcontractor's Work. Locations for parking, office trailer(s), marshaling yard(s), etc., shall be submitted to and approved by T&S.

8.5 T&S agrees that no claim for services rendered or materials furnished by T&S to Subcontractor shall be valid unless notice is given to Subcontractor prior to furnishing the services or material or unless written notice of the claim therefore is given by T&S to Subcontractor not later than the last day of the calendar month following that in which the claim originated, with the amount of the claim to be given in writing by T&S as soon as practicable.

ARTICLE 9

DEFAULT AND TERMINATION

9.1 Should Subcontractor fail at any time in T&S' opinion to supply a sufficient number of properly skilled workmen or sufficient materials and equipment of the proper quality, or fail in any respect to prosecute Subcontractor's Work with promptness and diligence, or fail to promptly correct defective work or fail in the performance of any of the agreements herein contained, after giving twenty-four (24) hours notice to Subcontractor, T&S may, at its option, provide such labor, materials, and equipment, and deduct the cost thereof, together with all loss or damage occasioned thereby, from any money then due or thereafter to become due to Subcontractor under this Subcontract.

9.2 To remedy deficiencies of Subcontractor, T&S shall be entitled to take over or to cause others to take over any of Subcontractor's Work being performed or to be performed under this Subcontract, or any part thereof, together with any tools and equipment, and any appliances, materials, and supplies specifically ordered or fabricated for the Project, whether at the jobsite or elsewhere, and to complete Subcontractor's Work for the account of Subcontractor by whatever method T&S deems reasonable, practical, and expedient; in this regard Subcontractor acknowledges that it is reasonable to employ a reputable substitute contractor upon a cost-plus or time and material basis to complete partially performed construction work; in such event no further payments to Subcontractor shall be made until said work is completed and accepted and paid for by Owner; then, if the unpaid balance of the Subcontract sum exceeds the entire cost (defined below) of completing said work, such excess shall be paid to Subcontractor; however, if such entire cost exceeds such unpaid balance, Subcontractor shall immediately pay the amount of such excess to T&S.

9.3 Any attempt by Subcontractor to cure any such claimed default during the notice period must be bona fide and effective to correct or substantially assure correction of the default in order to merit rescission of the notice of default.

9.4 Whenever the term "entire cost" is used in connection with the work performed and materials, services, etc. furnished by T&S or others for the account of Subcontractor, such term shall include all sums paid and obligations incurred to do the work and furnish the materials, services, etc. or have the same done or furnished by others, including, but not limited to, reasonable overhead and profit, and all litigation expenses, court costs, attorneys' fees, and any other necessary or expedient expenses of any nature reasonably incurred in connection with or incidental to such work. T&S may backcharge and deduct the entire cost against Subcontract earnings and the Subcontract account, and if the entire cost exceeds said Subcontract earnings and account, Subcontractor shall immediately pay T&S the amount of such excess.

9.5 If Subcontractor at any time shall refuse or neglect to supply sufficient properly skilled workmen, or materials or equipment of the proper quality and quantity, or fail in any respect to prosecute Subcontractor's Work with promptness and diligence, or cause by any action or omission the stoppage or interference with the Work of T&S or other Subcontractors, or fail in the performance of any of the covenants herein contained, or be unable to meet its debts as they mature, T&S may, at its option, at any time after serving written notice of such default with direction to cure in a specific period, but not less than two (2) working days, and Subcontractor's failure to cure the default, terminate Subcontractor's employment by delivering written notice of termination to Subcontractor. Thereafter, T&S may take possession of the plant and work, materials, tools, appliances, and equipment of Subcontractor at the building site, and through itself or others provide labor, equipment, and materials to prosecute Subcontractor's Work on such terms and conditions as shall be deemed necessary and shall deduct the cost thereof, including, without restriction thereto, all charges, expenses, losses, costs, damages, and attorneys' fees, incurred as a result of Subcontractor's refusal or failure to perform, from any money then due or thereafter to become due to Subcontractor under this Subcontract.

9.6 If T&S so terminates the employment of Subcontractor, Subcontractor shall not be entitled to any further payments under this Subcontract until Subcontractor's Work has been completed and accepted by Owner, and payment has been received by T&S from Owner with respect thereto. In the event that the unpaid balance due Subcontractor exceeds T&S' cost of completion, the difference shall be paid to Subcontractor, but if such expense exceeds the balance due, Subcontractor agrees to promptly pay the difference to T&S.

9.7 If T&S' contract with Owner is terminated, T&S may immediately terminate this Subcontract. Subcontractor shall be paid for the reasonable value of Subcontractor's Work in place at the date of any such termination by T&S, upon T&S' receipt from Owner of payment for such reasonable value in an amount not to exceed the Contract amount set forth in Paragraph 2.1 of this Subcontract.

9.8 (a) In addition to and without waiving any other provision in the Subcontract, T&S may, without cause, order the Subcontractor in writing to suspend, delay, or interrupt Subcontractor's Work in whole in or in part for such period of time as T&S may determine. In the event of suspension ordered by T&S, the Subcontractor shall be entitled to an equitable adjustment of the Subcontract Time and Subcontract Sum.

(b) Solely in the event of (a) above, an adjustment shall be made for increases in the Subcontract Time and Subcontract Sum, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:

- (1) that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Subcontractor is responsible; and
- (2) that an equitable adjustment is made or denied under another provision of this Subcontract.

ARTICLE 10

MISCELLANEOUS

10.1 This Subcontract shall be governed by the laws of the state of Texas. Subcontractor hereby agrees that payment under this Subcontract shall be made in Harris County, Texas, that requested Change Orders and modifications to this Subcontract shall be delivered to T&S in Harris County, Texas and approved by T&S in Harris County, Texas, that all required notifications shall be delivered to T&S in Harris County, Texas, and that venue for all suits involving this Subcontract and/or any amendments, Change Orders, or other changes thereto shall be mandatory and exclusive in Harris County, Texas. The parties further agree that Harris County, Texas is the particular place of performance for venue purposes in accordance with Sections 15.035 and 15.092 of the Texas Civil Practice & Remedies Code, and Subcontractor waives venue in any other location, whether mandatory or permissive.

10.2 Subcontractor shall employ only such labor in the performance of Subcontractor's Work as

will work harmoniously with the other. Subcontractor shall not cause, in whole or in part, any work stoppages or strikes on the Project. If Subcontractor causes, in whole or in part, any work stoppages or strikes on the Project, Subcontractor shall promptly take whatever steps are legally available to terminate the work stoppage or strike.

10.3 Failure by T&S in any instance to insist upon observance or performance by Subcontractor of any terms, conditions, or provisions of this Subcontract shall not be deemed a waiver by T&S of any such terms, conditions, or provisions, and observance or performance thereof; no waiver shall be binding upon T&S unless the same is in writing and signed by T&S and shall then be for the particular instance referred to in said writing only; waiver of any particular breach shall not be deemed a waiver of any other breach; payment of any sum by T&S to Subcontractor with knowledge of any breach shall not be deemed to be a waiver of such breach or any other breach. The remainder of this Subcontract will not be voided by the invalidity of one or more of the terms of this Subcontract.

10.4 Any notice, request, or communication under this Subcontract shall be in writing and shall be delivered in person or sent by certified mail, return receipt requested, addressed to the applicable party at such address as set out above such party's signature hereto. All such notices, requests, or other communications, if made by T&S to Subcontractor, shall be deemed to have been sufficiently given for all purposes herein, on the earlier of the day it is received or on the date of mailing thereof. If such notice, request, or communication is made by Subcontractor, such notice shall be effective only when received by T&S.

10.5 Subject to other provisions hereof, this Subcontract shall inure to the benefit of the parties hereto and their respective successors and assigns.

10.6 This Subcontract embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated herein, and all prior and contemporaneous agreements, understandings, representations, and statements (oral and written) are merged into this Subcontract. No prior written or contemporaneous oral promises or representations which are not expressly set forth in this Subcontract shall be binding. Neither this Subcontract nor any provision hereof may be waived, modified, amended, discharged, or terminated except as provided for herein, or by an instrument in writing signed by the party against whom the enforcement of such waiver, modification, amendment, discharge, or termination is sought, and only to the extent set forth in such instrument.

10.7 If any provision of this Subcontract is held to be illegal, invalid, or unenforceable under the present or future laws, (i) such provision shall be fully severable; (ii) this Subcontract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Subcontract; and (iii) the remaining provisions of this Subcontract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Subcontract.

10.8 In the event T&S places this Subcontract in the hands of an attorney to (1) enforce any provision hereof, or (2) collect any sums due to T&S by Subcontractor or its surety, T&S shall be additionally entitled to recover from Subcontractor or its surety, or both, court costs and attorneys'

fees of (i) either fifteen percent (15%) of the outstanding unpaid balance, inclusive of interest, or (ii) actual fees expended, whichever is greater.

10.9 All pronouns herein, whether masculine, neuter, singular, or plural shall be deemed to indicate the appropriate gender and number.

10.10 Subcontractor waives any and all claims against T&S for incidental or consequential damages arising out of or relating to this Subcontract, including, without limitation, any consequential damages due to T&S' termination in accordance with Article 9.7 and/or 9.8

10.11 T&S is an equal employment opportunity employer. Unless exempt, Subcontractor shall comply with the Equal Employment Opportunities of the Civil Rights Act of 1964 (as amended), Executive Orders 11246 and 11375 (as amended), Age Discrimination in Employment Act of 1967, Rehabilitation Act of 1973, and the Vietnam Era Readjustment Act of 1974, and with all other governmental laws, orders, and regulations relating to wages and hours of labor and other matters which may apply to Subcontractor in connection with its execution of this Agreement.

10.12 Subcontractor's surety shall be responsible for the payment of all costs, losses, or damages incurred by T&S as a result of Subcontractor's failure to comply with any provision of this Subcontract as a part of said surety's payment or performance bond undertakings, except for the insurance and indemnification coverages supplied by other insurers under the provisions of Article 5.

10.13 Subcontractor and its surety understand and agree that the limitation of the liability of T&S and its surety to pay Subcontractor solely after receipt of payments of monies from the Owner, applies to progress payments, final payments, and payments of any nature whatsoever otherwise due.

10.14 Notwithstanding any provision to the contrary contained in the Contract Documents, Subcontractor expressly agrees that this Subcontract does not contain a provision for the mandatory arbitration of disputes, nor does it incorporate by reference such a provision if such is contained in the contract between T&S and the Owner.

10.15 Notwithstanding Section 10.14, should T&S elect or be compelled to enter into arbitration with the Owner or others regarding matters relating to this Subcontract, Subcontractor agrees to consolidation of any claim of Subcontractor relating to this Subcontract with T&S' arbitration with the Owner or others, and Subcontractor agrees to be bound by the result of such arbitration.

10.16 This Subcontract may be created in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

10.17 This Subcontract shall conclusively be deemed to have been jointly prepared by all parties hereto, and any uncertainty or ambiguity in it shall not be interpreted against any of the parties, but according to the application of the rules of interpretation of contracts.

10.18 The parties hereto acknowledge that they have the right to consult with legal counsel

concerning the contents of this Subcontract and the rights and obligations created thereby. By executing this Subcontract, each party acknowledges that it has consulted with legal counsel of its own choosing to the extent each party deemed advisable.

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract effective the date and year first above written, which together with the Contract Documents, as defined herein, represent the entire and integrated agreement between the parties hereto, supersedes all prior negotiations, representations, or agreements, oral or written, and may only be amended or modified as defined in Article 4 or otherwise as required by this Subcontract. Each of the undersigned authorized representatives of the parties expressly warrants and represents and does hereby state and represent to the other party that no promise or agreement which is not herein expressed has been made to him in executing this Subcontract and that neither party is relying upon any statement or representation of any agent or representative of the other party which is not expressly contained herein.

"T&S"

**TRIBBLE & STEPHENS CONSTRUCTORS, LTD.
a Texas limited partnership**

**By: Tribble & Stephens Co., GP, L.L.C.
a Texas limited liability company
its sole General Partner**

Witness

By: _____
Name: Gary R. Kelley
Title: President

Date

"SUBCONTRACTOR"

Address:

Witness

By: _____

Date

(Name)

(Title)

SUBCONTRACT ATTACHMENT "A"

The following articles and stipulations are hereby made a part of **Subcontract No. 2500-**, between **TRIBBLE & STEPHENS CONSTRUCTORS, LTD.** And **SUB** for the Work performed on **JOB NAME** project:

1. WORK CANNOT BE PERFORMED BY SUBCONTRACTOR'S FORCES ON THE PROJECT UNTIL THE FOLLOWING DOCUMENTS ARE RETURNED, FULLY EXECUTED TO TRIBBLE & STEPHENS CONSTRUCTORS, LTD.:
 - A. Three (3) Subcontract Agreements
 - B. Certificate of Insurance (re: Article of the Subcontract and Insurance requirements)
 - C. Performance and Payment Bonds, if applicable. (re: Article 6 of the Subcontract)
2. Subcontractor shall submit to Tribble & Stephens Constructors, Ltd., on company letterhead and executed by a company officer, a Schedule of Values for Work to be performed.
3. Applications for payments must be made on forms provided Subcontractor in the Subcontract package by Tribble & Stephens Constructors, Ltd. The Schedule of Values on the back of the application form MUST be filled out completely and correctly each month with dollar amounts corresponding to the Schedule of Values approved in Item 2 above. NO PAYMENT WILL BE MADE ON REQUESTS USING FORMS OTHER THAN THOSE PROVIDED BY TRIBBLE & STEPHENS CONSTRUCTORS, LTD. Payment terms are further defined in Subcontract Agreement, Article 2. FINAL RETAINAGE MUST BE BILLED SEPARATELY FROM THE LAST MONTHLY DRAW REQUEST USING THE SAME FORM.
4. Subcontractor shall utilize lien waiver forms provided Subcontractor in the Subcontract package by Tribble & Stephens Constructors, Ltd. All releases MUST be executed by an officer of the company. These are detailed as follows:
 - A. TYPE IA – This form shall be executed monthly by Subcontractor in exchange for the monthly draw check.
 - B. TYPE IB – This form shall be executed by Subcontractor in exchange for the final retainage check.
 - C. TYPE IIA – When requested, Subcontractor will require his suppliers and Subcontractors providing labor materials, equipment or tools (either all or more) to the project to execute and submit this form to Tribble & Stephens Constructors, Ltd. on a monthly and final basis.

5. Delivery of materials, equipment, etc. required for Subcontractor's work must be scheduled with the enclosed tentative project schedule. Final confirmation of delivery dates shall be made through the Project Superintendent. In the event there is a potential delay in the project due to untimely delivery and/or shortage of Subcontractor's materials, etc., Subcontractor agrees to give written notice to Tribble & Stephens Constructors, Ltd. within two (2) days after notification of such potential delay.
6. No Work of any kind including movement of equipment, materials or men onto the jobsite shall begin without specific permission by the Project Superintendent. All scheduling of Work shall be coordinated with the Project Superintendent located at the jobsite.
7. Submittals (5 copies) and shop drawings (1 sepia and 4 blueprints) shall be submitted to Tribble & Stephens Constructors, Ltd. to the attention of the Project Manager. All shop drawings required shall be submitted on or before **(DATE)** to the following address in accordance with the contract documents.

TRIBBLE & STEPHENS CONSTRUCTORS, LTD.

8580 Katy Freeway, Suite 320

Houston, TX 77024

(713) 465-8550 (phone)

(713) 973-7107 (fax)

8. Prior to commencing Work, Subcontractor is required to furnish to Tribble & Stephens Constructors, Ltd. Superintendent any and all Material Safety Data Sheets (MSDS) pertinent to the project in accordance with the Hazardous Communication Standard – Parts 1910, 1915, 1917, 1918, 1926 and 1928.
9. Subcontractor shall be responsible for providing employees to the jobsite that are free of illegal drugs and alcohol. Subcontractor will furnish T & S a post-accident drug and alcohol test on any Subcontractor employee involved in a recordable accident. If Subcontractor's employee should refuse drug and alcohol testing or drug and alcohol testing returns a positive result, Subcontractor shall permanently remove employee from the T & S jobsite.
10. Subcontractor shall immediately furnish T & S with a report of any accident involving any of the Subcontractor's employees or equipment.
11. **INSURANCE** – Subcontractor must provide a Certificate of Insurance pursuant to Article 5 of the Subcontract and the attached sample certificate and specifically providing the following:
 - a. Naming Tribble & Stephens Constructors, Ltd. as an additional insured
 - b. Waiver of Subrogation on all policies
 - c. Thirty (30) days written notice of cancellation

12. The Tribble & Stephens Constructors, Ltd. management team assigned to this project are as follows:

(Name)	Project Director	(713)	Office
(Name)	Project Manager	(713)	Office
(Name)	Superintendent	(713)	Jobsite

13. Subcontractor's Work specifically includes but is not limited to the following:

(SPECIFICATION SECTION) (IF NO SPECS, PUT N/A HERE)	(DESCRIPTION TITLE)
Division 0	General Documents
Division 1 Section	General Requirements

14. Specifically included but not limited to the following:

(PUT SCOPE HERE)

- A. Subcontractor shall provide a Performance and Payment Bond equal to 100% of the Subcontract amount written by a surety listed in the edition of Federal Register as issued by the Department of Treasury. Format of said bond shall be in strict accordance with attached. In addition, it shall be the Subcontractor's responsibility to include any bond premium adjustments that may be required in the event of change orders, in any and all change order pricing.
- B. No music radios allowed on jobsite.
- C. Subcontractor to perform all necessary engineering required for his own Work.
- D. All Work to be scheduled and coordinated with the Project Superintendent. All material deliveries, storage trailers, etc., shall be approved in advance by the Project Superintendent.
- E. Subcontractor shall have an employee representative present during scheduled coordination meetings and safety meetings as requested by the Project Superintendent.
- F. Provide general clean up manpower proportional to manpower on project. Subcontractor to remove all trash/rubbish created as a result of this scope to central dumpster. All boxes, crates etc. to be broken down to minimal size.
- G. All _____ work to proceed in an orderly manner and in accordance with the job schedule and as directed by the Project Superintendent.

(IF YOUR JOB IS A REPAIR AND REMODEL PROJECT THIS PARAGRAPH NEEDS TO BE INSERTED AT THE END ON SECTION 14)

- H. In conformance with Texas Administrative Code, Title 34 Part 1 Chapter 3 Subchapter O Rule 3.357 (d) (1) and (2) relating to sales tax for the repair and remodeling of commercial realty, Tribble & Stephens Constructors, Ltd. will purchase materials incorporated into the realty and labor to perform the repair and remodeling as nontaxable purchases for resale. A Texas Resale Certificate is issued and made a part of the agreement for the tax-exempt purchase of incorporated materials and repair labor. Pursuant to Rule 3.357, the subcontractor is responsible for paying to appropriate sales/sue tax on consumable supplies, rentals, and taxable services that the subcontractor consumes or uses.

(IF SUBCONTRACTOR'S WORK IS DESIGN BUILD WORK THIS PARAGRAPH NEEDS TO BE INSERTED AT THE END ON SECTION 14)

- I. Any Subcontractor performing design/build work shall have professional liability insurance with minimum limits of \$1,000,000 per claim. Tribble & Stephens Constructors, Ltd. will not be listed as an additional insured and will not require a waiver of subrogation.

(PLEASE INSERT THIS PARAGRAPH IN YOUR GLASS SUBCONTRACTORS SCOPE OF WORK WHEN IT IS DEEMED NECESSARY)

- J. Subcontractor will contract with a consultant acceptable to T & S to perform three (3) field water tests, in compliance with the testing references listed in the contract specifications, at various stages of completion of the window system as directed by the project superintendent. Subcontractor will contract with a consultant acceptable to T & S to perform periodic on-site inspections during to review the installation of the window system.
15. All of the above including permits, scaffolding, fasteners and miscellaneous items required for a complete installation in accordance with all local and state codes. Trash and debris generated by your Work to be removed daily from the site or as directed by the Project Superintendent.
16. Exclusions:

(PUT EXCLUSIONS HERE)

17. In the event of a conflict among the Contract Documents, the provisions of this agreement shall be controlling. In the event any drawings or specifications are not specific, the better quality and/or greater quantity or Work or material shall be taken to be that specified under the Contract Documents.

18. By execution of this Subcontract, the Subcontractor is aware of the construction schedule and has included all labor, materials, equipment and overtime required to meet completion dates established by Tribble & Stephens Constructors, Ltd. You are also aware that during the construction process, some of the start and completion dates of various activities of Work may change. This does not relieve the Subcontractor from his contractual responsibility to schedule and complete his Work in accordance with Tribble & Stephens Constructors, Ltd. direction.
19. Subcontractor shall coordinate his Work with all other crafts to avoid conflict.
20. Subcontractor understands that Tribble & Stephens Constructors, Ltd. has selected Subcontractor, in part, because of its representations of experience in, familiarity with, and understanding of environmental laws, regulations and procedures applicable to large construction projects. Subcontractor does hereby warrant and represent to Tribble & Stephens Constructors, Ltd. that it is fully aware of and familiar with all federal, state and local environmental laws relative and applicable to the activities to be performed by Subcontractor under the terms of this Agreement.
21. Subcontractor is informed and aware that strict compliance with federal, state and local storm water discharge regulations, permits and requirements ("Storm Water Requirements"), as well as wetlands protection laws and requirements, is required of the Subcontractor by Tribble & Stephens Constructors, Ltd. as a material condition of this Agreement. Subcontractor does hereby agree, warrant and represent that it will, at all time during the performance of this agreement, strictly comply with all applicable environmental protection requirements. Subcontractor shall also include requirements for such compliance in all second tier subcontracts on the project that is the subject of this Agreement.
22. In the event that during the performance of work by Subcontractor under this Agreement, Tribble & Stephens Constructors, Ltd. determines (in its sole judgment and discretion) that Subcontractor or a sub-subcontractor is not complying with the requirements of the Agreement, or any part thereof Tribble & Stephens Constructors, Ltd. may require the Subcontractor to stop work until such noncompliance is remedied and corrected. In such event, any delay in completion of this project that may be penalized under any other provisions of the Agreement shall be charged to the Subcontractor, in addition to any damages resulting to Tribble & Stephens Constructors, Ltd. arising from such delay, or from any violations of Storm Water Requirements pursuant to these provisions.
23. Subcontractor is informed and aware that Tribble & Stephens Constructors, Ltd. may be subjected to fines, penalties, costs, attorneys' and consultants' fees, increased construction costs, delay expenses, loss of profits, and other losses (whether direct or indirect) or claims by third parties (all of the foregoing referred to herein as "Claims and Losses") as a result of the violations by Subcontractor of any Storm Water Requirements, wetland protection laws, at the site covered by this Agreement or at any other Tribble & Stephens Constructors, Ltd. sites at which Subcontractor may be working. In addition to

any other provisions of like nature herein, Subcontractor, its agents, employees or sub-subcontractors, where so ever committed, arising out of or that may affect the construction of the **NAME OF PROJECT** that is the subject of this Agreement.

24. The original Subcontract amount is \$

AGREED,

SUB NAME

**TRIBBLE & STEPHENS
CONSTRUCTORS, LTD.
a Texas limited partnership**

By: Tribble & Stephens Co., GP, L.L.C.,
a Texas limited Liability company
its Sole General Partner

By: _____
Name: _____
Title: _____

By: _____
Name: Gary R. Kelley
Title: President

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

PRODUCER AGENT'S NAME AND ADDRESS AND PHONE NUMBER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED INSURED'S NAME AND ADDRESS	INSURERS AFFORDING COVERAGE INSURER A: FOR THOSE CARRIERS WHOM ARE INSURER B: PROVIDING COVERAGE INSURER C: INSURER D: INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONTRACTUAL INCL. <input checked="" type="checkbox"/> XCU & PROD/COMP OPS GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	POLICY NUMBER	INCEPTION	EXPIRATION	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	POLICY NUMBER	INCEPTION	EXPIRATION	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	POLICY NUMBER	INCEPTION	EXPIRATION	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

SEE ATTACHED

CERTIFICATE HOLDER	ADDITIONAL INSURED; INSURER LETTER:	CANCELLATION
TRIBBLE & STEPHENS CONSTRUCTORS, LTD. 8580 KATY FREEWAY, SUITE 320 HOUSTON, TEXAS 77024		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

VERBIAGE FOR SUBCONTRACTOR INSURANCE

RE: **NAME OF PROJECT**

WAIVER OF SUBROGATION (CG 24 04 10 93) IS ADDED TO ALL POLICIES, IN FAVOR OF **TRIBBLE & STEPHENS CONSTRUCTORS, LTD.** AND **(INSERT OWNER'S NAME OR NAMES)**. ALL POLICIES, EXCEPT WORKERS COMPENSATION, INCLUDE **TRIBBLE & STEPHENS CONSTRUCTORS, LTD.** AND **(INSERT OWNER'S NAME OR NAMES)** AS ADDITIONAL INSURED (CG 20 10 10 01) & (CG 20 37 10 01). THESE COVERAGES ARE PRIMARY & NON-CONTRIBUTORY TO THOSE PROVIDED BY OWNER AND/OR CONTRACTOR.

IF **TRIBBLE & STEPHENS CONSTRUCTORS, LTD.** REQUIRES PROFESSIONAL LIABILITY COVERAGE, **TRIBBLE & STEPHENS CONSTRUCTORS, LTD.** WILL NOT BE LISTED AS AN ADDITIONAL INSURED AND WILL NOT REQUIRE A WAIVER OF SUBROGATION.

AUTHORIZED INSURANCE REPRESENTATIVE

ATTACHMENT "C"

Page 4 of 4

All Subcontractors must inform Tribble & Stephens Constructors, Ltd. if any of its employees are leased or if the Subcontractor is a co-employer. The Subcontractor must disclose the name, address and insurance policy of the employee leasing company before the contract is signed. Tribble & Stephens Constructors, Ltd. must review the insurance coverage or any required documentation for appropriate bonding prior to signing a contract.

All Subcontractors who are subcontracting a portion of their work to another company must have Tribble & Stephens Constructors, Ltd. named as an "Additional Insured" on all policies except Workers' Compensation along with a Waiver of Subrogation on all policies in favor of Tribble & Stephens Constructors, Ltd. A Certificate of Insurance must be forwarded to Tribble & Stephens Constructors, Ltd. with the above referenced language.

If anyone working for your company is issued a 1099, Tribble & Stephens Constructors, Ltd. MUST be informed before this contract is signed.

For the same consideration, the undersigned does hereby make Affidavit that Subcontractor/Supplier has not received any notice or communication that any of its Suppliers, Sub-Subcontractors, materialmen, laborers, or other parties have not been fully paid for all labor performed or material, equipment and/or tools furnished in connection with the Agreement, any other Subcontract, Purchase Order, sub-Subcontract, and/or agreement entered into by Subcontractor/Supplier and any person or entity, including, without limitation, T&S, Owner, any Supplier, Sub-Subcontractor, materialman, laborer, Subcontractor, or other party, respecting the Property, Project, and/or Work, up to and including the Effective Date. Subcontractor/Supplier further makes Affidavit, represents, and warrants that Subcontractor/Supplier has provided written notice to T&S of all claims, whether in tort, contract or equity, of which Subcontractor/Supplier is aware that may exist against T&S, Owner or the Property.

For the same consideration, the undersigned does hereby make Affidavit that Subcontractor/Supplier has paid, in full, for all labor performed and materials, equipment, and/or tools furnished by, to, or on behalf of Subcontractor/Supplier in connection with the Agreement, any other Subcontract, Purchase Order, sub-Subcontract, and/or agreement entered into by Subcontractor/Supplier and any person or entity, including, without limitation, T&S, Owner, any Supplier, Sub-Subcontractor, materialman, laborer, Subcontractor, or other party, respecting the Property, Project, and/or Work, up to and including the Effective Date, except for such bills not paid but included in the current payment application, request for payment, and/or invoice (which unpaid bills Subcontractor/Supplier hereby warrants, represents, and makes Affidavit it will immediately pay upon receipt of payment set forth above). Subcontractor/Supplier makes this Affidavit for the purpose of inducing the Owner and T&S to make payment to Subcontractor/Supplier, and Subcontractor/Supplier does hereby agree to DEFEND, INDEMNIFY, and HOLD HARMLESS T&S, Owner, and the Property, and all or any of the sureties or insurers of T&S and/or Owner, including, without limitation, _____, from any and all liens, claims, causes of action and/or costs, including, without limitation, attorneys' fees asserted by any person or entity which claims to have performed labor and/or furnished materials, equipment, and/or tools in connection with the Agreement, any other Subcontract, Purchase Order, sub-Subcontract, and/or agreement entered into by Subcontractor/Supplier and any person or entity, including, without limitation, T&S, Owner, any Supplier, Sub-Subcontractor, materialman, laborer, Subcontractor, or other party, respecting the Property, the Project, and/or the Work, or for which Subcontractor/Supplier has been previously paid. This indemnity is in addition to any indemnity contained in the Agreement.

In accordance with the terms and provisions of the Agreement, Subcontractor/Supplier further agrees that all labor and material, equipment, and/or tools furnished under the Agreement, or any portion of the Work, shall be free from defects resulting from faulty workmanship and/or materials for a period of one (1) year from the date of acceptance of the Work by Owner, or for such longer period as may be set forth in the Agreement or which may be applicable as a matter of law.

The undersigned hereby represents and warrants that he/she is the duly authorized agent of Subcontractor/Supplier and is fully empowered to enter into this Partial Release without any reservations and does hereby state and represent that no promise or agreement which is not expressed herein has been made to the undersigned in executing this Release, and that the undersigned is not relying upon any statement or representation of any agent of any of the parties being released, and the undersigned undertakes, agrees, and consents, on behalf of Subcontractor/Supplier, to be bound by all terms herein by signing in the space below.

SIGNED this _____ day of _____, 20__.

"SUBCONTRACTOR/SUPPLIER"

(Name of Company)

By: _____

Printed Name

Title

NOTE: BOTH THE AFFIDAVIT AND ACKNOWLEDGMENT ON THE NEXT PAGE MUST BE NOTARIZED FOR THIS RELEASE TO BE COMPLETE.

STATE OF _____§

COUNTY OF _____§

BEFORE ME, the undersigned authority, on this day personally appeared _____, _____ of _____, known to me to be the person whose name is subscribed to the foregoing instrument, and having been by me duly sworn, upon oath stated that the statements contained in the foregoing Affidavit are true and correct; that he/she is authorized to make this Affidavit; and that he/she executed the foregoing for the purposes and considerations and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, and SUBSCRIBED AND SWORN TO BEFORE ME, this ____ day of _____, 20__.

[S E A L]

NOTARY PUBLIC, STATE OF _____
COMMISSION EXPIRES: _____
NAME: _____

STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 20__, by _____, _____ of _____, a _____ corporation.

[S E A L]

NOTARY PUBLIC, STATE OF _____
COMMISSION EXPIRES: _____
NAME: _____

For the same consideration, the undersigned does hereby make Affidavit that Subcontractor/Supplier has not received any notice or communication that any Supplier, Sub-Subcontractor, materialman, laborer, or other party has not been fully paid for all labor performed or material, equipment and/or tools furnished in connection with the Agreement, any other Subcontract, Purchase Order, sub-Subcontract, and/or agreement entered into by Subcontractor/Supplier and any person or entity, including, without limitation, T&S, Owner, any Supplier, Sub-Subcontractor, materialman, laborer, Subcontractor, or other party, respecting the Property, Project, and/or Work. Subcontractor/Supplier further makes Affidavit, represents, and warrants that Subcontractor/Supplier has provided written notice to T&S of all claims, whether in tort, contract or equity, of which Subcontractor/Supplier is aware may exist against T&S, Owner or the Property.

For the same consideration, the undersigned does hereby make Affidavit that Subcontractor/Supplier has paid, in full, for all labor performed and materials, equipment, and/or tools furnished by, to, or on behalf of Subcontractor/Supplier in connection with the Agreement, any other Subcontract, Purchase Order, sub-Subcontract, and/or agreement entered into by Subcontractor/Supplier and any person or entity, including, without limitation, T&S, Owner, any Supplier, Sub-Subcontractor, materialman, laborer, Subcontractor, or other party, respecting the Property, Project, and/or Work. Subcontractor/Supplier makes this Affidavit for the purpose of inducing the Owner and T&S to make payment to Subcontractor/Supplier, and Subcontractor/Supplier does hereby agree to DEFEND, INDEMNIFY, and HOLD HARMLESS T&S, Owner, and the Property, and all or any of the sureties or insurers of T&S and/or Owner, including, without limitation, _____, from any and all liens, claims, causes of action and/or costs, including, without limitation, attorneys' fees asserted by any person or entity which claim to have performed labor and/or furnished materials, equipment, and/or tools in connection with the Agreement, any other Subcontract, Purchase Order, sub-Subcontract, and/or agreement entered into by Subcontractor/Supplier and any person or entity, including, without limitation, T&S, Owner, any Supplier, Sub-Subcontractor, materialman, laborer, Subcontractor, or other party, respecting the Property, the Project, and/or the Work, or for which Subcontractor/Supplier has been previously paid.

In accordance with the terms and provisions of the Agreement, Subcontractor/Supplier further agrees that all labor and material, equipment, and/or tools furnished under the Agreement, for any portion of the Work, shall be free from defects resulting from faulty workmanship and/or materials for a period of one (1) year from the date of acceptance of the Work by Owner, or for such longer period as may be set forth in the Agreement or which may be applicable as a matter of law.

The undersigned hereby represents and warrants that he/she is the duly authorized agent of Subcontractor/Supplier and is fully empowered to enter into this Final Release without any reservations and does hereby state and represent that no promise or agreement which is not expressed herein has been made to the undersigned in executing this Release, and that the undersigned is not relying upon any statement or representation of any agent of any of the parties being released, and the undersigned undertakes, agrees, and consents, on behalf of Subcontractor/Supplier, to be bound by all terms herein by signing in the space below.

SIGNED this _____ day of _____, 20__.

"SUBCONTRACTOR/SUPPLIER"

(Name of Company)

By: _____

Printed Name

Title

**NOTE: BOTH THE AFFIDAVIT AND ACKNOWLEDGMENT ON THE NEXT PAGE
MUST BE NOTARIZED FOR THIS RELEASE TO BE COMPLETE.**

ATTACHMENT "E" SUBCONTRACTOR'S/SUPPLIER'S APPLICATION FOR PAYMENT

To: TRIBBLE & STEPHENS CONSTRUCTORS, LTD.

From: _____

Project: _____

Tribble & Stephens Subcontract/P.O.: _____ Payment Request/Invoice No: _____

Period: _____, 20__ To: _____, 20__

STATEMENT OF CONTRACT AMOUNT:

	To Date	This Month	
1. Original Contract/Purchase Order Amount	_____		
2. Approved Change Order Nos. ___ to ___	_____		
3. Adjusted Contract/Purchase Order Amt. (1+2)	_____		
4. Value of Work Completed (SUB)	_____		
5. Material Stored on Site (SUB)	_____		
6. Total (4+5) (SUB) Total Invoiced (SUPPLIER)	_____	_____	Total Billed
7. Less Amount Retained (SUB)	_____	_____	Retainage
8. Total Less Retainage (6 minus 7) (SUB)	_____		
9. Total Previously Submitted	_____		
10. AMOUNT DUE THIS REQUEST	_____	_____	Total Due

_____ (State) Tax Included in this Request @ _____ % (SUPPLIER)

Out-of-State Supplier Collecting Tax Permit No. _____

Out-of State Supplier NOT Collecting Tax (_____)

CERTIFICATE OF SUBCONTRACTOR/SUPPLIER

I hereby certify that the materials or labor, and or equipment supplied to date, as shown above, represents the actual value of completed work under the terms of the Purchase Order/Subcontract (and all authorized changes thereto) between the undersigned and Tribble & Stephens relating to the above referenced project.

I also certify that payments have been made through the period covered by previous payments received from the contractor for all materials, labor and equipment used in or in connection with this Purchase Order/Subcontract. I further certify I have complied with federal, state and local tax laws, including Social Security laws and Unemployment Compensation laws and Workmen's Compensation laws insofar as applicable to the performance of this contract.

Subcontractor does further warrant that should any claim or lien be filed for material supplied or labor performed by virtue of Subcontractor's participation in the construction of said improvements, Subcontractor will immediately furnish a bond for release of such lien, and obtain settlement of any such liens and furnish Owner and Contractor written full release of such liens. Subcontractor agrees to fully indemnify and hold harmless the contractor, its Sureties, Owner and Owner's Lenders, for any costs or damages, including attorney's fees, that may incur by reason of such liens.

Date: _____ Subcontractor/Supplier: _____

Subscribed and sworn before me
This _____ day of _____, 20__ By: _____

Notary Public Title: _____

My commission Expires: _____

ATTACHMENT "F"

Any contractor or subcontractor responsible for portions of the Storm Water Pollution Prevention Plan (SWPPP) or who will engage in activities that will impact the efforts of the SWPPP should sign the following certification prior to providing services at the construction site.

NAME OF FIRM _____
Address _____
City: _____ State: _____ Zip: _____

BEST MANAGEMENT PRACTICES REQUIRED BY THE SWPPP

Sediment and Erosion Controls:

- Maintain and do not damage erosion control measures (e.g., silt fence, grass mesh strips, storm drain inlet covers)
- Keep dirt and sand piles away from curbs
- Pour waste concrete into approved disposal pits (min. capacity 0.5 CY)
- All site traffic must use the stabilized construction entrance.
- Other _____

Vegetative Techniques:

- Do not damage existing vegetation on the perimeter of the site during construction.
- Use grass strips or sod to control erosion during construction
- Other: _____

Solid Waste Management Practices

- Subcontractors are responsible to dispose of trash and debris each workday and remove it from the site or dispose of it in approved containers.
- Approved, covered & leak proof trash container(s) must be used throughout the project.
- Regularly schedule solid waste contractors to pick up trash containers.
- Other _____

Hazardous Waste Management Practices

- Spill Response Bulletins will be posted on-site or available in the site superintendent's vehicle.
- Store paints, thinners, acids and solvents in a structure secured for storm water exposure, or in the contractor's vehicles. Remove these items from the site daily.
- Ensure paints, thinners, acids and solvents disposed of at the site are properly disposed of.
- Contractors will remove from the site waste paints, thinners, additives, acids and solvents for proper disposal.
- NO waste products in the dumpsters except in open, empty containers.
- NO fueling tanks on-site. Vehicles will be fueled off-site or from truck mounted tanks.
- Other _____

Hazardous Materials Used during Installation

- Solvents Any solvents will be removed from site by the subcontractor
- Stains & paint Paints and stains will be stored inside and waste paint and stains will be removed from site by the contractor.
- Wood Preservatives Wood preservatives will be stored inside and waste wood preservative will be removed from site by the contractor.
- Lead-Based Paint None is to be used during project.
- Fuels Clean up any leaks or spills
- Oils Clean up any leaks or spills
- Grease Clean up any leaks or spills
- Pesticides Pesticides, if used, will be applied according to the manufactures labeled instructions, and will not be applied just before a rain event. Excess pesticides will be removed from the site once application is complete. Clean up any leaks or spills.
- Fertilizer Fertilizer, if used, will not be applied just before a rain event, and will not be stored on-site for any length of time. Clean up any leaks or spills. Remove from site.
- Roofing Tar Waste tar will be disposed of in covered container and excess tar will be removed from site by the contractor.
- Acid All acid bottles will be removed from site by the contractor. No acid wash waters are to leave the site.
- Other _____

Paving Management

- Paving Paving will not be placed just before or during rain events. Waste concrete is poured into an approved disposal pit (min capacity 0.5CY)

Certification: *I certify that I understand the requirements as stated above and will provide the necessary management and resources needed to comply with the general National Pollutant Discharge Elimination System (NPDES) permit and/or the TPDES as outlined in the SWPPP.*

Signature: _____ **Date** _____

Title _____

ATTACHMENT "G" SUBCONTRACTOR PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That _____,
_____ (hereinafter called the "Subcontractor") a _____
(State of incorporation) corporation, of _____,
_____, (address) as Principal (hereinafter
called the "Principal"), and
(hereinafter called the "Surety") a _____ (State of incorporation)
corporation, of _____, (address) as
Surety (hereinafter called the "Surety"), are held and firmly bound unto TRIBBLE &
STEPHENS CONSTRUCTORS, LTD., a Texas limited partnership (hereinafter called the
"Obligee"), in the sum of
Dollars (\$ _____), for the payment of which sum well and truly to be made, the
Principal and Surety bind themselves, and their respective heirs, administrators, executors,
successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal and Obligee have entered into a written agreement dated
_____, (hereinafter called the "Subcontract"), for the
performance by the Principal, as Subcontractor, of _____,
_____,
(description of the Subcontract work) all as more fully described in said Subcontract, which
Subcontract is hereby incorporated herein and made a part of this Bond with the same force
and effect as if fully set forth at length herein verbatim.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if
the above bound Principal shall well and truly perform all of the undertakings, covenants,
terms, conditions and agreements of said Subcontract within the time provided therein and
any extension thereof that may be granted by the Obligee, and during the life of any
guarantees contained in or required under said Subcontract, and shall also well and truly
perform all the undertakings, covenants, terms, conditions and agreements of any and all
modifications of said Subcontract that may hereafter be made, and shall indemnify and save
harmless the Obligee of and from any and all loss, damage and expense, including costs and
attorneys' fees which the Obligee may sustain by reason of the Principal's failure, neglect
and/or refusal to so do, then this obligation shall be null and void; otherwise it shall remain in
full force and effect.

The Surety, for value received, agrees that its obligation shall in no way be impaired
or affected by any change, extension of time, alteration, addition, deletion, omission or other
modification in or of the said Subcontract or the work to be performed thereunder and does
hereby waive notice of any and all such changes, extensions of time, alterations, additions,

omissions, deletions and/or other modifications.

The Surety, for value received, agrees, if requested to do so by the Obligee, to perform fully and completely the work described in said Subcontract and any and all modifications thereof pursuant to and in accordance with all of the undertakings, covenants, terms, conditions and agreements thereof, if the Principal fails, neglects and/or refuses to so perform fully and completely said work, and further agrees to commence the performance and completion of said work within two (2) days after receipt of notice thereof from the Obligee of such failure, neglect and/or refusal of the Principal and to perform and complete the same within the time required under said Subcontract and any and all modifications thereof as extended. If Surety elects to complete the Principal's work, Surety shall obtain a bid or bids for submission to Obligee for completing the Subcontract under its terms and conditions, and upon determination by Obligee and Surety of the lowest responsive, responsible bidder, arrange for a contract between such bidder and Obligee, and make available as work progresses (even though there should be a default or a succession of defaults under the Subcontract of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Subcontract Price as defined below; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. Further, Surety will pay to Obligee, all costs, expenses and attorney's fees incurred by Obligee in enforcing this Bond.

If the Surety fails to timely remedy the default of the Principal within the time period described above or fails to diligently proceed with the work or fails to bring the Principal's work within the construction schedule within two (2) days after commencing to remedy the default, Obligee, without further notice to Surety may arrange for the performance of Principal's obligation under the Subcontract. Surety specifically agrees that should the Obligee in its sole discretion, determine that immediate performance is required, Obligee shall be entitled to take such action without the necessity of waiting for the Surety to remedy the Principal's default.

The Balance of the Subcontract Price, as defined below, shall be credited against the reasonable cost of completing performance of the Subcontract. If completed by the Obligee, and the reasonable costs exceed the Balance of the Subcontract Price, the Surety shall pay to the Obligee such excess and any and all expenses, damages and attorneys' fees incurred by Obligee in completing the Principal's work. If the Surety arranges completion or remedies the default, that portion of the balance of the Subcontract Price as may be required to complete the Subcontract or remedy the default and to reimburse the Surety for its outlay shall be paid to the Surety at the times and in the manner as said sums would have been payable to the Principal under the terms of the Subcontract. The term "Balance of the Subcontract Price" as used herein, shall mean the total amount payable by Obligee to Principal under the Subcontract and any amendments thereto, less the amounts heretofore

paid by Obligee and all amounts properly due and owing to Obligee by Subcontractor or properly retained by Obligee under the terms and provisions of the Subcontract.

This Bond shall be for the sole benefit of the Obligee, its successors and assigns.

For the purpose of this Bond, any notice required to be sent to Surety shall be forwarded to the individual signing for the Surety below at the address set forth below said individual's signature. Notice to said individual shall constitute notice to Surety under the terms hereof.

IN WITNESS WHEREOF, the Surety has hereunto affixed its corporate seal and caused this Bond to be duly executed and acknowledged by its authorized officers or representatives this ___ day of _____, 19___. (Must be same date as Subcontract.)

_____,
Principal

By: _____

Name: _____

(Corporate Seal)

_____,
Surety

By: _____

Name: _____

Title: _____

Address: _____

ATTACHMENT "G"

SUBCONTRACTOR PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That _____, (hereinafter called the "Subcontractor") a _____ (State of incorporation) corporation, of _____, (address) as Principal (hereinafter called the "Principal"), and _____, (hereinafter called the "Surety") a _____ (State of incorporation) corporation, of _____, (address) as Surety (hereinafter called the "Surety"), are held and firmly bound unto TRIBBLE & STEPHENS CONSTRUCTORS, LTD, a Texas limited partnership (hereinafter called the "Obligee"), in the sum of _____ Dollars (\$ _____), for the payment of which sum well and truly to be made, the Principal and Surety bind themselves, and their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal and Obligee have entered into a written agreement dated _____, (hereinafter called the "Subcontract"), for the performance by the Principal, as Subcontractor, of _____ (description of the Subcontract work), all as more fully described in said Subcontract, which Subcontract is hereby incorporated herein and made a part of this Bond with the same force and effect as if fully set forth at length herein verbatim.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound Principal shall promptly pay all persons having just claims for (a) labor, materials, services, insurance, supplies, machinery, equipment, rentals, fuels, oils, implements, tools and/or appliances and any other items of whatever nature, furnished for, used or consumed in the prosecution of the work called for by said Subcontract and any and all modifications thereof, whether lienable or nonlienable and whether or not permanently incorporated in said work; (b) pension, welfare, vacation and/or other supplemental employee benefit contributions payable under any employment agreement with respect to person employed upon said work; and (c) federal, state and local taxes and/or contributions required by law to be withheld and/or paid with respect to the employment of persons upon said work, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

If, however, the Principal fails to promptly pay any claims for the matters described above, Surety, within fifteen (15) days after receipt of written notice from Obligee of the Principal's failure to promptly pay said claims, shall pay said claims in full. If Surety fails to pay said claims within the above described time, Obligee may, but shall not be obligated to, pay said claims and Surety shall pay to Obligee, upon demand, any and all of such claims paid by Obligee. Further, Surety shall indemnify and save harmless Obligee of and from any and all loss, damage, and expense, including costs and attorney's fees which the Obligee may sustain by reason of Principal's and/or Surety's failure, neglect and/or refusal to pay said claims. Further, Surety will pay to Obligee all costs, expenses and attorneys' fees incurred by Obligee in enforcing this Bond.

The Surety, for value received, agrees that no change, extension of time, alteration, addition, deletion, omission or other modification of said Subcontract or the work to be performed thereunder shall in any way impair or affect its obligation on this Bond and does hereby waive notice of any and all such changes, extensions of time, alterations, additions, deletions, omissions and/or other modifications.

The Principal and the Surety, for value received, agree that this Bond shall inure to the benefit of all persons having just claims as aforesaid, whether or not they have any direct contractual relationship with the Principal, as well as to the benefit of the Oblige, and that such persons may maintain independent actions upon this Bond in their own names.

For the purpose of this Bond, any notice required to be sent to Surety shall be forwarded to the individual signing for Surety below at the address set forth below said individual's signature. Notice to said individual shall constitute notice to Surety under the terms hereof.

IN WITNESS WHEREOF, the Surety has hereunto affixed its corporate seal and caused this Bond to be duly executed and acknowledged by its duly authorized officers or representatives this ____ day of _____, 19 __. (Must be same date as Subcontract.)

_____, Principal

By: _____

Name: _____

Title: _____

(Corporate Seal)

_____, Surety

By: _____

Name: _____

Title: _____

Address: _____