



**DEANGELIS DIAMOND CONSTRUCTION, LLC
SUBCONTRACTOR AGREEMENT**

Made as of: _____, 20__

By and Between the Contractor: DeAngelis Diamond Construction, LLC 6635 Willow Park Drive Naples, Florida 34109	and the Subcontractor: XXX XXX XXX
For the Project Name/Project Number: XXX/XXX Project Location: XXX XXX	Architect Name and Contact: XXX XXX
With the Owner: XXX XXX	Project is enrolled in CCIP: YES <input type="checkbox"/> No <input type="checkbox"/> Project is enrolled in OCIP: YES <input type="checkbox"/> No <input type="checkbox"/> Bonds are Required: YES <input type="checkbox"/> No <input type="checkbox"/> All Certificates of Insurance required by Article 11 must be sent to: insurance@deangelisdiamond.com
EXHIBITS & ATTACHMENTS Subcontract Terms & Conditions (Form 10-2019SUBFL) Exhibit A: Scope of Work Exhibit B: Drawing Log Exhibit C: Overall Project Schedule Exhibit D: Performance and Payment Bonds Form Exhibit E: Lien Waivers Exhibit F: Site Utilization Plan	ADDITIONAL EXHIBITS & ATTACHMENTS Exhibit P – DeAngelis Diamond Early Payment Option Exhibit S – DDC Safety Program
<p>“Subcontract Sum” is _____ Dollars (\$_____)</p> <p>“Retainage” is Ten Percent (10%)</p> <p>“Work” means TRADE and all work described in Article 1 in Subcontract Terms & Conditions and the attached Exhibit A.</p> <p>“State” means the state in which the Project is located.</p>	

This Subcontractor Agreement, including the terms and conditions set forth below and all other exhibits and attachments constitutes the entire agreement and all prior or contemporaneous negotiations, agreements, written or oral, between the parties regarding the subject matter are superseded by the Subcontractor Agreement. This Subcontractor Agreement may not be modified except by a written document signed by an authorized representative of each party. The parties, for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of all of the terms and conditions herein contained.

SUBCONTRACTOR

DEANGELIS DIAMOND CONSTRUCTION, LLC

Name: Insert Name
Title: Insert Title

Name: Insert Name
Title: Insert Title



ARTICLE 1 THE WORK

§ 1.1 The Contract Documents consist of (1) this Subcontractor Agreement, including all exhibits and attachments hereto ("Subcontract"); (2) the Prime Contract, and the other contract documents enumerated therein, including, but not limited to, all applicable drawings, plans and specifications for the Project; (3) modifications and change orders to the Prime Contract, whether before or after the execution of this Agreement; and (4) modifications and change orders to this Subcontract ("Contract Documents"). Subcontractor agrees to furnish all labor, staff, administration and supervision; furnish, supply and/or install all equipment, material, supplies, tools, machinery, scaffolding, hoisting, transportation, layout (including engineering where necessary), unloading and handling; do all things required or reasonably inferable to fully complete the work described in Exhibit A to this Subcontract; all in strict compliance with the requirements, terms and conditions set forth in the Contract Documents, industry standards and all applicable codes (hereinafter the "Work"). Notwithstanding anything herein to the contrary, Subcontractor's proposal is not a Contract Document and is not part of this Subcontract. The Subcontractor shall assume toward the Contractor all obligations and responsibilities which Contractor has assumed to the Owner in the Prime Contract. Subcontractor shall require any Sub-Subcontractors or Material Suppliers performing portions of the Work of this Agreement to assume these same obligations for the portions of the Work assumed by those Sub-Subcontractors or Material Suppliers. In the event of a conflict in the Contract Documents, the provision imposing the greater duty or obligation on the Subcontractor shall govern. Furthermore, in the event of a conflict between the terms and conditions contained in Exhibit A of this Subcontract and those that appear elsewhere in this Subcontract, those that appear elsewhere in this Subcontract shall govern, except as to specific trade scope items, in which event, Exhibit A shall govern.

§ 1.2 The Contract Documents, including, but not limited to a redacted Prime Contract, are available for examination by the Subcontractor at all reasonable times at the office of Contractor. The Subcontractor represents and agrees that it has carefully examined and understands this Subcontract and the other Contract Documents, has investigated the nature, locality and site of the Work and the conditions and difficulties under which it is to be performed and that it enters into this Subcontract on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of Contractor, or of the Owner, or of any of their respective officers, agents, servants, or employees.

§ 1.3 Subcontractor expressly represents and warrants to Contractor that Subcontractor holds special knowledge, training, and experience in such Work, and that Subcontractor shall provide everything required or necessary to complete such Work to the highest standards of such workmanship in the industry, regardless of whether all items, materials, equipment or requirements are expressed, identified or detailed in this Subcontract, the Contract Documents, or in the plans, drawings or specifications. Subcontractor shall require all of its subcontractors, vendors, and material suppliers of any tier to be bound by all obligations and requirements of Subcontractor herein by written agreement. By executing this Subcontract, Subcontractor confirms that it has been provided ample opportunity to review the Contract Documents prior to such execution; has either reviewed and accepted the obligations set forth in the Contract Documents or has declined such opportunity and accepted such obligations by such declination; and accordingly, waives all claims, rights, allegations and defenses that Subcontractor has not reviewed or was not given the opportunity to review the Contract Documents or lacks knowledge of any of the terms or conditions contained therein.

§ 1.4 All of the Work shall be performed in accordance with all of the Contract Documents, according to the true intent and meaning thereof including all labor, materials, and design incident thereto, or as are usually performed or furnished in connection with such work, and regardless of whether the labor or materials hereby subcontracted are referred to under one of more headings in the specifications. It is the intention of the parties that all work usually performed by the trade(s) covered by this Agreement and required by the Contract Documents shall be performed by the Subcontractor. If Subcontractor believes any aspect of the Work covered by this Agreement is not sufficiently detailed or explained, then Subcontractor confirms it has sought written clarification prior to entering this Agreement. If Subcontractor, at some point after execution of this Agreement, believes any aspect of Work is not sufficiently detailed or explained, then Subcontractor shall seek written clarification from Contractor and shall be bound by such clarification without additional compensation.

ARTICLE 2 TIME OF COMMENCEMENT AND COMPLETION

§ 2.1 The Subcontractor shall start the Work upon notice to proceed or as otherwise directed by the Contractor and shall execute the Work in accordance with the Contractor's construction schedule. Subject to authorized adjustments in accordance with the Subcontract, the Work shall be completed no later than the date(s) specified, if any, in this Subcontract or the date stated in the most recent project schedule or schedule update provided by Contractor to Subcontractor, whichever has been most recently provided at any given time. Subcontractor understands that schedules and milestones are subject to review and revision, and in such event, such revisions will be made available for Subcontractor's information at the jobsite office of the Contractor. It is the sole responsibility of the Subcontractor to attend job meetings, keep itself informed of any revisions, and conform to any such revisions.

ARTICLE 3 SUBCONTRACT SUM

§ 3.1 Contractor agrees to pay the Subcontract Sum to the Subcontractor as full payment for all work, labor, materials, equipment, taxes, fees and all other matters or amounts arising out of or to be performed or furnished by the Subcontractor or anyone for whom Subcontractor is responsible under this Subcontract.

§ 3.2 The Subcontract Sum is based upon the following alternates, if any, which are described in the Contract Documents and have been accepted by the Owner and the Contractor: See Exhibit "A"

§ 3.3 Unit prices, if any: See Exhibit "A"

§ 3.4 Allowances included in the Subcontract Sum, if any: See Exhibit "A"

ARTICLE 4 PAYMENT

§ 4.1 On the 20th day of each month, Subcontractor shall submit to the Contractor a detailed application for payment for Contractor's review and acceptance by means of the Textura Construction Payment Management System, as outlined in §18.7 of this Subcontract ("Textura"). Such payment application shall specifically itemize all sales tax included in such application, and shall, include without limitation, receipts, vouchers, payment slips, and all other documentation as required by the Contractor showing the proportionate value of the Work performed and/or installed through the last day of the month for which payment is requested and progress and final lien releases on the form attached as Exhibit E to this Agreement executed by Subcontractor and each of Subcontractor's Sub-Subcontractors or material suppliers that provided labor or materials for the period covered by the current pay application. Failure to submit a timely application for payment may result in the postponement of payment under such application for payment until the next application for payment is due. To the fullest extent permitted by law, the obligation of Contractor to make a payment under this Subcontract, whether a progress or final payment or for change orders or delays to the Work, is dependent, as an express condition precedent, upon the Contractor receiving such payments, including Retainage, from the Owner.

§ 4.2 Retainage shall be retained from each payment by the Contractor. Retainage held on Subcontractor shall be reduced after Substantial Completion of the Project at the Contractor's sole discretion or at the latest time permitted by law, whichever is earlier, but shall be subject to being withheld or further increased due to damage to another subcontractor's work, defective or incomplete Work, unsettled claims or Subcontractor's failure to fulfill any obligations set forth in its Subcontract, subject to applicable law.

§ 4.3 The Contractor shall pay the Subcontractor by electronic funds transfer within five (5) business days after Contractor's receipt of payment from Owner, provided Subcontractor's rate of progress and general performance are satisfactory and Subcontractor satisfies all conditions precedent to payments set forth in this Subcontract and the Contract Documents. Progress payments to Subcontractor are only required to be made from funds received from the Owner for work properly performed by the Subcontractor. Prior to the submission of the first application for payment, Subcontractor shall submit a detailed breakdown of the Subcontract Sum showing a Schedule of Values for various parts of the Work in such form and detail required by the Contractor for use as basis of payment of the Subcontractor's monthly requisition. The Schedule of Values may not be front-end loaded. If the Owner agrees to pay for stored materials, Subcontractor may include stored materials in its pay application, subject to requirements and approval by the Owner and Owner's Lender, provided that Subcontractor secure adequate insurance coverage and transfer title to such materials free and clear of all liens and claims.

§ 4.4 Final payment to the Subcontractor shall be made only with funds received by Contractor from the Owner as final payment for Work under the Prime Contract. Final payment by Contractor to the Subcontractor shall not become due and payable until the following express conditions precedent have been fulfilled: (1) final payment has been properly invoiced by Subcontractor according to the requirements of this Agreement; (2) the Subcontractor's Work is fully performed and complete in strict accordance with the requirements of the Contract Documents; (3) the Architect

has issued a certificate for payment covering the Subcontractor's Work; (4) the Contractor has received final payment from the Owner, including all retention; (5) the Subcontractor has provided to the Contractor five copies of all operating manuals, manufacturer warranties and Subcontractor's warranties assembled in a three-ring binder; (6) Subcontractor has provided a full and final unconditional lien release executed by Subcontractor on the form attached to this Subcontract; (7) Subcontractor has provided full and final unconditional lien releases executed by each sub-subcontractor and supplier utilized by Subcontractor on the Project on the form attached to this Subcontract; (8) Subcontractor provides as-built and record drawings including all field changes, if required by Owner or Contractor; and (9) all back charges or deducts have been applied. Final payment shall be due within thirty (30) days after all of the above express conditions precedent have been met.

§ 4.5 Contractor has the right, at its sole discretion, to make any payment to Subcontractor by a check made payable to the joint order of Subcontractor and Subcontractor's workers, suppliers, sub-subcontractors or any of the Subcontractor's creditors having a potential lien or bond rights against the Project. Subcontractor agrees to cooperate fully in facilitating the making of such joint check payments.

§ 4.6 No progress or final payment made pursuant to or in connection with this Agreement shall be conclusive evidence of the performance of the Work or of this Agreement, in whole or in part, and no such payment shall be construed to be an acceptance of defective, faulty or improper work or materials nor shall it release the Subcontractor from any of its obligations under this Agreement; nor shall entrance and use by the Owner constitute acceptance of the Work or any part thereof. Furthermore, the observations of or participation by Owner, Architect or Contractor in inspections, tests or mock-ups shall not relieve Subcontractor from its obligations to perform the Work in accordance with the Contract Documents.

§ 4.7 Subcontractor acknowledges and agrees that to the extent that payments received by Subcontractor include amounts for Work performed by lower-tier subcontractors to Subcontractor or services or materials provided to Subcontractor shall be deemed to have been received by Subcontractor as trustee with those entitled to receive payment from Subcontractor as beneficiaries of such amounts, and Subcontractor shall utilize such amounts only for the purpose of making payment to such beneficiaries.

ARTICLE 5 TIME

§ 5.1 Subcontractor shall execute the Work with promptness and diligence to maintain and meet the project schedules of the Contractor and Contract Documents, as revised in the Contractor's discretion. It is specifically understood that time is of the essence for the performance of the Subcontractor's Work pursuant to the terms and conditions of this Subcontract. Accordingly, Subcontractor shall be liable for all costs, losses, liabilities and damages arising out of or occurring in connection with Subcontractor's failure to diligently commence or prosecute the Work or any other breach of this Subcontract. In the event that the Subcontractor should fail to maintain the Project schedules of the Contractor or the Contract Documents, in whole or in part due to causes within Subcontractor's control, Contractor may, after forty-eight (48) hours written notice, either by letter or confirmed email to Subcontractor, procure materials, equipment, and labor necessary to proceed with, or to complete the Work, or any portion thereof, and charge the cost, expense and damages thereof to the Subcontractor, and/or to exercise such other remedies as set forth in this Subcontract.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 Contractor reserves the right, without invalidating this Subcontract, to make changes in the Work, including additions, deletions or other revisions to the Work, as it deems necessary, upon written order to the Subcontractor. All changes shall be stipulated in a written order signed by Contractor prior to the commencement of the work. Should the Subcontractor proceed with any additional work without a written order from Contractor, Subcontractor does so at its own risk and expense. Subcontractor shall provide Contractor with written notice of any circumstance, occurrence or direction given by Contractor which Subcontractor believes to be a change, addition and/or omission or which may otherwise serve as the basis for a request for an increase in Subcontract Sum or extension of Subcontract Time within five (5) days of the receipt of the direction, or the occurrence of the event or circumstance giving rise to such request. If Subcontractor fails to provide written notice within such time period, such request for an increase in Subcontract Sum or extension of Subcontract Time shall be deemed waived. If the parties are unable to agree as to the adjustment of Subcontract Sum or Time, Subcontractor shall not delay or suspend work in any way but promptly proceed with the work under the written order of Contractor, and the determination of the adjustment of the Subcontract Sum and/or Time shall be resolved pursuant to the dispute resolution procedures set forth in this Subcontract. For all changes in the Work requiring an increase in the Subcontract Sum, charges for profit and overhead will not exceed 10 % for self-performance of the Work and 5% for subcontracted Work.

§ 6.2 All requests for increase in Subcontract Sum or extension of Subcontract Time by the Subcontractor require an itemized breakdown of all costs, including, but not limited to, labor, materials, equipment, overhead and profit, a

critical path schedule analysis demonstrating entitlement to the number of days requested, and any other supporting documentation required by Contractor and/or Owner. For any such requests, the Subcontractor shall assist Contractor and provide all information and documentation required by the Prime Contract for Contractor to pursue such request with Owner. Subcontractor agrees that any such request shall be deemed waived and forfeited if Subcontractor fails to provide information and documentation as required by this Article. Subcontractor agrees that Contractor shall not be obligated to make payment to Subcontractor for any change order or modification unless and until Contractor receives payment from the Owner for same, a receipt of which is an express condition precedent to Contractor's obligation to make any such payment to Subcontractor.

§ 6.2.1. Contractor's superintendent and other field personnel are not authorized to approve any increase in the Subcontract Sum or extension of the Subcontract Time resulting from a change to or extra work under this Subcontract. Contractor's superintendents and field personnel can verify the amount of time and materials Subcontractor devotes to work, for which the Subcontractor claims it is entitled to additional compensation, but such verification shall not constitute agreement that the work in question is extra work entitling Subcontractor to an extension of time or additional compensation. Only Contractor's project manager is authorized to approve changes (increases or decreases) to the Subcontract Sum or an extension of the Subcontract Time.

ARTICLE 7 EXECUTION AND PROGRESS OF WORK

§ 7.1 Subcontractor shall at all times provide sufficient, safe and proper facilities for the inspection of the Work by Contractor, the Architect, and their authorized representatives in the field, at shops or at any other place where materials or equipment for the Work are in the course of preparation, manufacture, treatment or storage. Subcontractor shall, within twenty-four (24) hours after receiving written notice from Contractor, proceed to take down all portions of the Work and remove from the premises all materials whether worked or unworked, which the Architect, Contractor, Owner or any of its design consultants shall fail to approve, or shall condemn as unsound, defective or improper, non-compliant or as in any way failing to conform to the Contract Documents. Subcontractor, at its own cost and expense, shall promptly repair, replace, and remedy such portions of Work with proper and satisfactory work and materials and make good all work damaged or destroyed by or as a result of such unsound, defective, improper or nonconforming work or materials or by the taking down, removal or replacement thereof regardless of whether Subcontractor disagrees with the reason for such portions of the Work being condemned or rejected.

§ 7.2 The Subcontractor shall be solely responsible for its manner, means and methods of performing the Work. Any inspections, approvals or payments by Contractor shall not relieve the Subcontractor of its obligation to perform the Work in accordance with the Contract Documents.

§ 7.3 The Subcontractor shall promptly prepare shop drawings, product data, samples, certificates and similar submittals required by the Contract Documents (See Exhibit A) and in such sequence as to cause no delay in the Work or in the activities of the Contractor or other subcontractors. Approval of such shop drawings by Contractor and/or the Architect shall not relieve the Subcontractor of its obligation to perform the Work in strict accordance with the Contract Documents, nor of its responsibility for the proper matching and fitting of the Work with contiguous work and the coordination of the Work with other work being performed on the site, which obligation and responsibility shall continue until completion of the Work. By submitting shop drawings, product data, samples, certificates and similar submittals, Subcontractor represents that Subcontractor has reviewed the submission for accuracy and compliance with all Contract Documents and that wherever engineering is required to be performed, same has been performed by a qualified and licensed engineer. Notwithstanding the dimensions on the plans, specifications and other Contract Documents, it shall be the obligation and responsibility of the Subcontractor to take such measurements as will ensure the proper matching and fitting of the Work covered by this Agreement with contiguous work.

§ 7.4 Subcontractor shall be responsible for coordinating and obtaining all required inspections of the Work with local and other governing agencies. If Subcontractor discovers or in the exercise of reasonable diligence should have discovered that any predecessor work by other trades is not in accordance with the Contract Documents, the Subcontractor shall, prior to commencing that portion of the Work, notify the Contractor in writing in advance of performing its Work. Subcontractor shall be responsible for all additional costs and impacts to the schedule should Subcontractor fail to so notify Contractor. Commencement of the Work in a particular area will be acknowledged as acceptance of the surfaces and conditions within that particular area and Subcontractor shall bear all costs incurred by Contractor, Owner and other subcontractors, and shall not be entitled to extensions of time and adjustments in Subcontract Sum that could have been avoided by Subcontractor's compliance with the requirements of this Article.

§ 7.5 The Subcontractor shall supervise and direct the Subcontractor's Work and shall cooperate with the Contractor in scheduling and performing the Subcontractor's Work to avoid conflict, delay in or interference with the Work of the Contractor, other subcontractors or Owner's own forces. The Subcontractor recognizes that revisions in the

construction schedule are inherent in construction and may result in revisions to the sequencing and scheduling of the Subcontractor's Work. Subcontractor agrees that Contractor cannot and does not guarantee Subcontractor can start work on any particular date or continue without interruption once started. The Subcontractor shall comply with all deadlines and all time periods contained in the updated schedule which shall become the benchmark for required performance of the Subcontractor's Work. In the event the Subcontractor or those under the control of Subcontractor delay the progress of the Work or the Project for reasons caused in whole or in part by Subcontractor or those under the control of Subcontractor, Subcontractor shall work the required hours and overtime, including weekends and evenings, and provide the required manpower to accelerate or otherwise get back on schedule at no additional expense to the Contractor. Should the Subcontractor fail to make up for the time lost by reason of such delay, Contractor shall have the right to cause other Subcontractors to work overtime and to take whatever other action it deems necessary to avoid delay in the completion of the Work and of the Project, and the cost and expense of such overtime and/or such other action shall be the sole responsibility of the Subcontractor.

§ 7.6 Should the Subcontractor be delayed, disrupted, hindered, obstructed or interfered with by any act or omission of the Contractor, the Owner or by any other subcontractor on the Project, and such delay is not due in whole or in part to any fault, act or omission of the Subcontractor or those under the control of Subcontractor, then the time for completion of the Work may be extended for a period equivalent to the time lost by reason of the aforesaid causes, as determined by the Contractor and approved by the Owner, and provided that the Subcontractor has complied with the notice requirements of this Agreement. Such extension of time shall be the Subcontractor's sole and exclusive remedy for any delay and the Subcontractor shall have no claim for damages against the Contractor for any delay.

§ 7.7 Should the progress of the Work or of the Project be delayed, disrupted, hindered, obstructed, or interfered with by any fault or neglect or act or failure to act of the Subcontractor or any of its officers, agents, servants, employees, subcontractors or suppliers so as to cause any additional cost, expense, liability or damage to Contractor, including, but not limited to, legal fees and disbursements incurred by Contractor (whether incurred in defending claims arising from such delay or in seeking reimbursement and indemnity from the Subcontractor and its surety hereunder or otherwise) or to the Owner or any damages, including but not limited to liquidated damages, or additional costs or expenses for which Contractor or the Owner may or shall become liable, Subcontractor and its surety, if applicable, shall and does hereby agree to compensate Contractor and the Owner for and indemnify against all such costs, expenses, damages and liabilities. If there is a provision for liquidated damages in the Contract Documents, Subcontractor shall be liable to Contractor for any liquidated damages for which Contractor is held responsible by reason of the failure of Subcontractor to maintain the schedule in compliance with the Contract Documents. The flow down of such liquidated damages to the Subcontractor is not intended as the Contractor's sole and exclusive remedy for the Subcontractor's untimely performance or delays, and Contractor further reserves all other rights, remedies, and damages as set forth in this Subcontract or in equity.

§ 7.8 The Subcontractor shall furnish to the Contractor periodic progress reports in the form required by Contractor, on the Work of this Subcontract on a weekly basis, including information on the status of materials and equipment that may be in the course of preparation, manufacture, or transit.

§ 7.9 Prior to receipt of any payment properly due hereunder, Subcontractor shall pay for all materials, equipment and labor used in connection with the performance of this Subcontract through the period covered by the current pay application, and shall furnish satisfactory evidence to Contractor verifying compliance with the above requirements, including, but not limited to, unconditional lien releases and waivers from all material suppliers and sub-subcontractors performing work at the Project on the form acquired through Textura and any other documentation requested by Contractor in its sole and reasonable discretion.

§ 7.10 Subcontractor shall cooperate with the Contractor, other subcontractors, the Owner's forces and separate contractors. The Subcontractor shall participate in the preparation of coordinated drawings in areas of congestion specifically noting and advising the Contractor of potential conflicts between the Work of the Subcontractor and that of the Contractor, other subcontractors, or the Owner's own forces. Subcontractor acknowledges that congestion is not uncommon and is experienced on construction projects, and that congestion may occur on this Project. Subcontractor acknowledges that it has not been guaranteed and should not expect unfettered access to work spaces for this Project. The Subcontractor shall cooperate with Contractor in coordinating areas of congestion and shall work to resolve such issues with Contractor without claim for additional cost additional time. If Subcontractor fails to advise Contractor of any conflict prior to commencing the Work at issue, Subcontractor waives any claims that it may have to an adjustment in time or Contract Sum.

§ 7.11 Subcontractor shall be responsible for its own quality control and quality assurance, and Subcontractor is solely responsible for assuring that its work complies with the Contract Documents. Subcontractor should neither expect nor rely on Contractor to perform quality control or quality assurance of Subcontractor's Work.

§ 7.12 Subcontractor agrees to procure materials and supplies from sources and to perform all of its Work with labor and subcontractors that will work harmoniously with other elements of labor involved in the construction of the Project. In the event of any strike, work stoppage or other form of labor dispute in connection with the Work is directed at or results from the operations of Subcontractor or anyone for whom Subcontractor is responsible, and causes or results in delay, interference or stoppage of any portion of the Work, or any portion of the work of the Contractor or any other subcontractor, and such delay or interruption continues in aggregate for two (2) or more days, Contractor may terminate this Subcontract pursuant to §8.1 and/ or §14.1 of this Subcontract and Contractor shall have all rights and remedies provided in this Subcontract or at law. Subcontractor expressly agrees not to participate in or accede to any stoppage in Work which may result from a labor dispute.

§ 7.13 In the event Subcontractor employs independent contractors, as well as payroll labor, to discharge its obligations hereunder, Subcontractor acknowledges and understands that it does so at its own risk and that federal, state and/or local agencies may dispute the independent contractor status and assess penalties, fines, and costs should there be a determination to reclassify such workers. In that event, Subcontractor agrees that it will defend, indemnify, and hold Contractor and Owner harmless from any fines, costs, damages, penalties, attorneys' fees and causes of action, including, without limitation, personal injury or property damage, arising out of or relating in any way to such a determination.

§ 7.14 The risk of loss for material and equipment provided by this Agreement, whether in a deliverable state or otherwise, shall remain with the Subcontractor until final acceptance of the Project by Owner. Any damages to the material and equipment or loss of any kind occasioned in transit shall be borne by the Subcontractor.

§ 7.15 The Subcontractor must attend a pre-construction meeting, if requested by Contractor, prior to the Subcontractor's date of commencement. The pre-construction meeting shall be attended by the Subcontractor's highest-ranking field personnel, as well as those individuals from Subcontractor's home office that will have involvement managing the Work on the Project.

§ 7.16 If Subcontractor assigns persons (whether employees, independent contractors, or agents) to perform Work for Subcontractor, Subcontractor shall have conducted all background checks reasonably necessary for hiring of such employees and independent contractors

§ 7.17 Any employee of Subcontractor or its sub-subcontractors/material suppliers assigned to perform Work shall have undergone I-9 Employment Eligibility Verification and be authorized to legally work in the United States. Immigration status of employees or independent contractors shall be verified by Subcontractor through E-Verify or by accepting authorized forms of identification.

ARTICLE 8 CONTRACTOR'S RIGHTS AND REMEDIES

§ 8.1 Should the Subcontractor, at any time, whether before or after final payment or completion of the Work, refuse, neglect, or fail to supply a sufficient number of properly skilled workers, or materials of the proper quality or quantity or fail in any respect to prosecute the Work promptly and diligently or fail to maintain the schedule in compliance with the Contract Documents; fail, as determined by the Architect, Contractor or Owner, in the performance, or observance of any terms, conditions, obligations of the Contract Documents; or fail to properly remedy a noticed violation of this Agreement, then Contractor, after forty-eight (48) hours written notice to the Subcontractor and in addition to any other rights and remedies provided by this Subcontract, the Contract Documents or at law, shall have the right, but not the obligation, to: (a) perform and furnish such labor or materials for all or any portion of the Work and to deduct all such corrective costs, expenses, losses, delay damages and any other damages provided for in this Subcontract from the Subcontract Sum any amount due or to become due to the Subcontractor under this Subcontract; (b) terminate the Subcontractor's employment for all or any portion of the Work rights under the Contract Documents for some or all of the remaining Work; and/or (c) and enter upon the premises and take possession, for the purpose of completing all or any portion of the Work, of all materials, tools, equipment and other items, all of which the Subcontractor hereby authorizes Contractor to employ and/or communicate with any person or persons in connection with the completion of the Work and/or to provide all the labor, services, materials, equipment and other required items. If any of the above action is taken by Contractor, the Subcontractor shall not be entitled to receive any further payment under this Agreement until the Work is completed to the satisfaction of and accepted by Contractor, Owner and the Architect, at which time, if the unpaid balance of the amount to be paid under this Agreement shall exceed the cost and expense incurred by Contractor in completing the Work, such excess shall be paid by Contractor to the Subcontractor; but if such cost and expense shall exceed such unpaid balance, then the Subcontractor and its surety, if any, shall pay the difference to Contractor. Such costs and expenses incurred by the Contractor for completion or remediation of Subcontractor's Work as herein provided shall include labor, materials, amounts paid to other contractors, delay damages, and any expense, costs or other damages incurred because of such default, termination or

failure to perform, including but not limited to overhead, profit, additional general conditions, attorneys' fees (including, but not limited to, costs of Contractor's in-house counsel in defending claims arising from such default and in seeking recovery of all such cost and expense from the Subcontractor and/or its surety), and architectural fees. Should Contractor take action under the provisions of this paragraph, and should it subsequently be determined that such action, including a termination by the terms of this Section or §8.2, was improper, such termination shall be treated as a termination for convenience pursuant to §14.1 below.

§ 8.2 In accordance with §8.1, Contractor shall also have the right to terminate this Subcontract and recover all expenses, if Subcontractor (1) becomes insolvent, enter bankruptcy either voluntarily or involuntarily, make assignment for the benefit of its creditors or have a receiver appointed; (2) materially changes its financial condition, transfer any material assets, change control or management without Contractor's prior written consent; or (3) enters into any unauthorized assignment or delegation of this Subcontract without Contractor's prior written consent.

§ 8.3 Provided Subcontractor has been paid in accordance with the terms and conditions of this Subcontract, Subcontractor shall defend, indemnify and hold harmless Contractor, Owner, and any applicable sureties and any other indemnitee required in §10.1 of this Subcontract from and against any laborer's, materialmen's or other similar lien or bond claim or other claim for non-payment filed, asserted or threatened to be filed or asserted by Subcontractor or any of its sub-subcontractors, materialmen or suppliers of any tier in connection with the Work. In the event that such lien or bond claim or other claim for non-payment is threatened or filed, Subcontractor shall, upon forty-eight (48) hours' written notice, cause such claim to be paid, released or discharged, or file a bond in the case of a lien to secure discharge of such lien. If Subcontractor fails to resolve any such claim or provide a bond sufficient to fully protect the Owner and Contractor against any claim of lien, Contractor may retain out of any payment then or thereafter due to Subcontractor an amount sufficient to completely indemnify the Owner and Contractor against such labor, invoice, bill, lien or claim without any determination as to the validity of any such claim or lien. If within forty-eight (48) hours after notice to Subcontractor, the Subcontractor has failed to resolve a claim, and fails to provide a bond against such claim, then the Contractor, in its sole discretion, has the absolute right but not the obligation to make direct payment or joint check payment to any of the Subcontractor's lower-tier subcontractors, materialmen, laborers, suppliers and/or lienors and automatically deduct such payment amounts from the Subcontract Sum. Subcontractor hereby agrees to cooperate as necessary to facilitate such direct or joint check payments and will promptly execute any and all documents reasonably requested by the Contractor for that purpose. If such amounts exceed the unpaid balance of the Subcontract Sum, the Subcontractor shall promptly pay all monies that the Contractor has paid in discharging any such claim or lien including, but not limited to, any attorney fees, bond or other premiums and costs.

ARTICLE 9 WARRANTY

§ 9.1 The Subcontractor hereby guarantees the Work to the full extent provided in the Contract Documents. The Subcontractor shall remove, replace and/or repair at its own expense and at the convenience of the Owner any faulty, defective or improper Work, materials or equipment existing or discovered within one (1) year from the date of the acceptance of the Project as a whole by the Architect and the Owner or for such longer period as may be provided in the Contract Documents. Without limiting the generality of the foregoing, the Subcontractor warrants to the Owner, the Architect and Contractor, and each of them, that all materials and equipment furnished under this Subcontract will be of first class quality and new, unless otherwise required or permitted by the other Contract Documents, that the Work performed pursuant to this Subcontract will be free from defects and that the Work will strictly conform with the requirements of the Contract Documents. Work not conforming to such requirements, including substitutions not properly approved and authorized, shall be considered defective. All warranties contained in the Contract Documents shall be in addition to and not in limitation of all other warranties or remedies pursuant to applicable law. Failure of Subcontractor to honor and satisfy the foregoing and any other warranties or guarantees required of the Subcontractor under the Contract Documents, shall constitute a default by Subcontractor.

ARTICLE 10 INDEMNIFICATION

§ 10.1 To the fullest extent permitted by law, Subcontractor shall indemnify, defend, and hold the Contractor, Owner, architect, and their respective members, managers, shareholders, directors, officers, agents, and employees (collectively, the "Indemnified Parties") harmless from any and all claims, costs, expenses, damages, suits, fines, penalties and/or liabilities (including attorneys' fees and costs and attorneys' fees incurred to enforce Subcontractor's obligations set forth in this Article) caused by, resulting from, arising out of or occurring in connection with: (1) the execution of the Work, or in preparation for the Work, or any extension, modification or amendment to the Work by change order or otherwise; (2) any breach or default by Subcontractor in the performance of its obligations under the Subcontract; or (3) any actions or suits concerning any of the foregoing in which any of the Indemnified Parties are made a defendant, provided, however, Subcontractor's duties set forth in this §10.1 shall not arise if such damages are caused by or resulting from the gross sole negligence, or the willful, wanton or intentional misconduct of an Indemnified Party. Any claim for indemnification for claims, costs, expenses, damages, suits, fines, penalties and/or

liabilities caused in whole or in part by any act, omission or default by an Indemnified Parties shall be limited to the amount of Subcontractor's insurance required under this Subcontract or \$2,000,000 per occurrence, whichever is greater. The parties acknowledge and agree that the amount of the indemnity required hereunder bears a reasonable commercial relationship to this Subcontract. The parties are familiar with the terms and requirements of Fla. Stat. §725.06 and intend that this §10.1 comply with said statute. To the extent necessary, this §10.1 shall be modified to comply with the terms, provisions and requirements of Fla. Stat. §725.06, as it may be amended from time to time. The duty of indemnification and to defend shall continue beyond and survive the date of completion of the Project and the expiration or earlier termination of this Subcontract until any and all claims are fully and finally barred by the greater of any and all applicable statute of limitation or statute of repose.

§ 10.2 In claims against any of the Indemnified Parties by an employee of the Subcontractor, the Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligations of Subcontractor shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor or the Subcontractor's Sub-subcontractors under workers' compensation acts, disability benefit acts or other employee benefit acts. Under no circumstances shall the insurance requirements and limits set forth in this Subcontract be construed to limit Subcontractor's indemnification obligations or other liability hereunder.

§ 10.3 Subcontractor hereby agrees to indemnify, protect and hold Contractor and Owner harmless from any and all liability, loss, damage and to reimburse Contractor and Owner for any expenses, including legal fees and disbursements, to which Contractor and the Owner may be put because of claims or litigation on account of infringement or alleged infringement of any intellectual property rights, including patent rights, by reason of the Work or materials, equipment or other items used by the Subcontractor in its performance.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Before the earlier of commencement of the Work, entering the Project site (at any time), or five (5) days after executing the Subcontract, Subcontractor shall provide evidence that it has obtained the insurance required by this Article, as well as that which is legally required by any US federal or state laws as well as the law of any other jurisdiction(s) outside of the US where the Work is performed. This insurance shall be placed with a company or companies rated "A" or better by A.M. Best and licensed to do business in the jurisdiction(s) in which the Work is performed. The insurance required by this Article shall be maintained continuously until the final payment is made to the Subcontractor for the Work except that any commercial general liability, excess liability, pollution liability and professional liability insurance required in this Article shall be maintained continuously until the later of the period of the statute of limitations or the statute of repose for the types of claims covered by the particular policy type. Evidence of the insurance required by this Article shall also be provided after final payment for the Work before Subcontractor enters the Project or is performing work for the Project. Any insurance required of the Subcontractor shall protect the Subcontractor from claims which may arise for which the Subcontractor may be legally liable, whether such operations be by the Subcontractor or by a sub-subcontractor of any tier or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The insurance limits and types required in this Article are minimum requirements (and are subject to any broader terms required by Owner) and are denominated in US Dollars.

Subcontractor reserves the right to consider any insurance not in compliance with this Article as a material breach of contract. Any aggregate limits of insurance required must be reinstated if they are eroded at any time during the period within which the insurance is required to be provided herein, such reinstatement costs shall not be a reimbursable cost. Contractor reserves the right to require additional insurance types and coverage limits in addition to what is required in this Article. If the Project is insured by a CCIP or OCIP or other wrap-up insurance program, then Subcontractor should refer to the Project wrap-up manual (incorporated herein as a Contract Document) for any additional or alternate insurance obligations. Subcontractor shall require its subcontractor of all tiers to meet the same insurance requirements as are required of it in this Subcontract. However, unless determined otherwise by Contractor, or specifically designated otherwise in this Article, these obligations do not pertain to the limits of liability required to be provided by the Subcontractor. All insurance required of the Subcontractor in this Article shall be applicable to the extent permitted by law.

It is solely the Subcontractor's obligation to ensure that it provides the appropriate insurances required in the jurisdiction(s) in which the work is being performed, and that it has included all relevant costs. Subcontractor waives any and all rights it has against Contractor for premiums, claims, penalties or other costs incurred as a result of Subcontractor's failure to provide insurance required by law.

§ 11.2 Subcontractor shall purchase and maintain such insurance as will protect itself from claims set forth below, which may arise out of, or result from its operations under this Subcontract, whether such operations be by itself, or

by any sub-subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, including coverage for the following:

- (a) Claims under Worker's or Workmen's Compensation Disability Benefits, and other Employee Benefit Acts required by the state in which the Project is located, whether or not Subcontractor utilizes leased employees or labor services for its Work;
- (b) Claims for damages because of Bodily Injury, occupational sickness or disease, or death of its employees or other persons;
- (c) Claims for damages, other than to the Work itself, because of injury to, or destruction of tangible property, including loss of use resulting therefrom;
- (d) Claims from damages because of Bodily Injury, or death of any person, or property damage, arising out of the ownership, maintenance, or use of any motor vehicle; and
- (e) "COMPLETED OPERATIONS" Coverage shall be maintained throughout the statute of repose period under the law of the state in which the Project is located.
- (f) Claims which may arise out of or result from explosion, collapse or underground (XCU) operation.
- (g) Depending upon the project and scope of services provided, coverage may be required for claims from damages arising out of the rendering or failure to render professional services.
- (h) Depending upon the project and scope of services provided, coverage may be required for claims from Bodily Injury, On and Off-site Property Damage and Remediation Costs arising out of a pollution incident

§11.3 The Limits of Liability shall not be less than the following:

COMMERCIAL GENERAL LIABILITY ("CGL")

Bodily Injury & Property Damage	\$1,000,000 per occurrence
General Aggregate other than Products/CO	\$2,000,000 per project
Products and Completed Operations	\$2,000,000 Aggregate

AUTOMOBILE LIABILITY

\$1,000,000 combined single limit per accident

EMPLOYER'S LIABILITY/ WORKERS COMPENSATION

\$1,000,000 each accident or statutory limits
 \$1,000,000 disease per employee or statutory limits
 \$1,000,000 disease policy aggregate or statutory limits

EXCESS/UMBRELLA LIABILITY

\$3,000,000 per occurrence
 \$3,000,000 per project general aggregate
 \$3,000,000 Products & Completed Operations Aggregate

PROFESSIONAL LIABILITY (if applicable)

\$2,000,000 per claim
 \$2,000,000 per aggregate

POLLUTION LIABILITY (if applicable)

\$2,000,000 each occurrence
 \$2,000,000 per aggregate

§ 11.4 Commercial General Liability ("CGL"). Subcontractor shall provide CGL coverage with a Per Project Aggregate equivalent to the most recent edition of the ISO CG 00 01 occurrence form. This insurance shall not exclude coverage for explosion, collapse, and underground hazards (the "XCU" hazards) and should include contractual liability coverage for Insured Contracts or that which the subcontractor would have in the absence of a contract or agreement, for bodily injury and property damage arising out of premises-ongoing operations and products-completed operations without any limitation. The CGL insurance shall include insured contract coverage including indemnity for damages or injuries to the Subcontractor's employee(s) and shall not exclude any Additional Insured's ("Additional Insured" as defined in §11.10) claims pertaining to damages or injuries to the Subcontractor's employee(s). Subcontractor's policies required by the Contract Documents shall contain no exclusions or limitations with respect to the Subcontractor's scope of work and/or type of structure being constructed, including, without limitation, exclusions for condominium, residential, lead, asbestos, EIFS or specified drywall.

§ 11.5 Automobile Liability. Automobile liability coverage shall be provided for any auto, including any owned, non-owned or hired vehicle. This insurance shall also include contractual liability coverage for Insured Contracts of that which would have been required in the absence of the contract or agreement. If Subcontractor will be hauling or transporting any hazardous materials as defined in paragraph (f) below, then this insurance shall include the most current version of the ISO CA 99 48 Broadened Pollution Liability Endorsement, or its equivalent, and the MCS-90 shall be attached to the policy. If the Subcontractor's Work is to be performed within fifty (50) feet of any railroad

property or affecting any bridge or trestle, tracks, roadbeds, tunnels, underpass or crossing, then the most current version of ISO CA 20 70 (or its equivalent) shall be attached to the automobile liability policy.

§ 11.6 Excess/Umbrella Liability. Subcontractor shall provide occurrence-based follow-form excess (or umbrella) liability insurance which shall provide coverage excess over its employer's liability, CGL, and Automobile Liability insurance. The Excess/Umbrella Liability coverage limits shall not be less than \$3,000,000 per occurrence and \$3,000,000 general aggregate. However, if Subcontractor is using a crane, as defined in OSHA 1926,1400 (a), then Subcontractor shall provide excess/umbrella liability coverage of at least \$10,000,000 per occurrence/\$10,000,000 in aggregate or other limits as required from time to time depending upon the size and scope of the project and work being performed. Subcontractor agrees to adhere to any procedural guidelines required by the Contractor with respect to evidencing insurance coverage applicable to any crane including the operation of it.

§ 11.7 Professional Liability. Subcontractor shall provide professional liability insurance if the Work (including the scope of any of its subcontractors or subconsultants) includes fire alarm design, mechanical work, plumbing work, fire sprinkler work or any professional service. Subcontractor must maintain policies written on a claims made basis for a minimum of two (2) years after substantial completion of the Project and have a retroactive date prior to the effective date of this Subcontract.

§ 11.8 Pollution Liability. Subcontractor shall provide pollution liability insurance if the Work includes excavation, remediation, transporting or disposing of hazardous materials or any other pollution services. Contractor, Owner and any other parties as designated by the Owner or the Contractor shall be named as additional insureds.

§ 11.9 Subcontractor's Equipment; Property. Subcontractor shall maintain property insurance coverage covering its tools, equipment and other business or personal property, whether owned, rented or borrowed, the capital value of which is not incorporated into the cost of the work. Subcontractor agrees to adhere to any procedural guidelines required by Contractor with respect to evidencing any property insurance coverage applicable to any crane, as defined in OSHA 1926,1400 (a). In addition, to the extent that Subcontractor carries any installation floater, transit coverage, off-site insurance or other property insurance applicable to its Work, such insurance shall include Contractor and Owner as additional insureds with regard to their interests in the Work. Such insurance shall be primary insurance to Contractor and Owner without any contribution from any other property insurance, including builder's risk insurance, available to the Subcontractor, Contractor and/or Owner.

§ 11.10 Additional Insured. For the purpose of this Article 11, "Additional Insureds" shall mean: (i) Contractor (and its partners if Contractor is a joint venture or members if it is an LLC); (ii) Owner; (iii) both Owner and Contractor's officers, directors and employees, (iv) any person or entity requested by Contractor or Owner; and (v) and any other person or entity required to be added as an additional insured by the Contract Documents. Additional Insureds shall be named as additional insureds on Subcontractor's CGL, Automobile Liability, and Subcontractor's Pollution Liability insurance policies. Such additional insured coverage shall be provided on a primary basis without contribution from any other insurance, including self-insurance, afforded to the Additional Insureds, whether such coverage is issued on a primary or excess basis. Subcontractor's CGL, Pollution Liability insurance policies shall provide the Additional Insureds with coverage for actual or alleged bodily injury, property damage and personal and advertising liability arising out of any premises-ongoing operations and/or products-completed operations. Coverage for the Additional Insureds on Subcontractor's CGL insurance shall be provided on any version of ISO forms CG 20 10 and CG 20 37, or their equivalent(s), unless an alternative is approved by the Contractor. Any CGL, Excess/Umbrella Liability and Pollution Liability additional insured coverage required in this paragraph shall remain in effect after Contractor's acceptance of the Work and from the date of such acceptance until the later of the period of the statute of limitations or the statute of repose for the types of claims covered by the insurance to which the additional insured coverage applies. If the Subcontractor's policy limits are greater than the minimum limits of liability required in this Article 11 for a type of insurance, then the full extent of those policy limits shall also be available to the Additional Insureds. Any of Subcontractor's Excess/Umbrella Liability policies shall be expressly endorsed to state that coverage for the Additional Insureds is primary and that the insurer will not seek contribution from any other insurance available to the Additional Insured. Any of Subcontractor's Excess/Umbrella Liability policies shall be expressly endorsed to state that coverage for the Additional Insureds is primary and that the insurer will not seek contribution from any other insurance available to the Additional Insured.

§ 11.11 Self-Insured Retentions (SIR's); Deductibles. Any costs not covered due to self-insured retentions ("SIR's") or deductibles applicable to any insurance required of Subcontractor by this Subcontract are the sole responsibility of the Subcontractor. Any SIR in excess of \$50,000 must be approved by Contractor. Subcontractor shall be considered a self-insurer with respect to its additional insured obligations under § 11.10 for any SIR or deductible applied by its insurer to any of the Additional Insureds.

§ 11.12 Certificates of Insurance. Subcontractor shall evidence its compliance with the insurance obligations in the Contract Documents through the issuance of certificates of insurance to the Contractor. The description of operations section of these certificates of insurance shall state the additional insured and waiver of subrogation coverage being provided. All certificates provided to Contractor shall include evidence of (1) any self-insured retentions and (2) project name and number. In addition, all CGL certificates shall include as an attachment a hard copy of any compliant documentation which evidences the additional insured endorsement coverage required by §11.10 above. Contractor's acceptance of any certificate of insurance or coverage provision in no way waives Contractor's right to later assert that Subcontractor did not provide insurance in conformance with the Contract Documents. If Subcontractor fails to comply with its insurance obligations under the Contract Documents, Contractor may withhold monthly progress payments. In the event Subcontractor does not obtain the insurances required by the Contract Documents, then Contractor may obtain such insurances for Subcontractor and pay the premiums thereon. Subcontractor shall repay Contractor on demand for any such premium costs incurred by Contractor to secure coverage on Subcontractor's behalf, or Contractor may deduct the amount of such premiums from any sums that are due, or may become due, to Subcontractor. Contractor has no obligation to obtain such insurance for Subcontractor, and Contractor's failure to do so shall in no way relieve Subcontractor of its obligations. Upon request, Subcontractor shall provide Contractor with any certificates of insurance, coverage provision or certified copy of any insurance policy applicable to coverage required of Subcontractor in the Contract Documents. Subcontractor shall endorse its policies to provide a minimum of thirty (30) days cancellation notice to Contractor. Not less than two weeks prior to the expiration, cancellation or termination of any such policy, the Subcontractor shall supply the Contractor with a new and replacement Certificate of Insurance and Additional Insured endorsement as proof of renewal of said original policy. Said new and replacement endorsements shall be similarly endorsed in favor of Contractor and Owner as set forth above. Evidence of insurance required in this Article shall also be provided any time after the Work is completed but Subcontractor has re-entered the Project site. **All Certificates of Insurance must be sent to: insurance@deangelisdiamond.com**

§ 11.13 Waiver. Subcontractor agrees to waive any right of action against Contractor (and its partners if Contractor is a joint venture or its members if an LLC), Owner, and any others required to be provided a waiver by the Contract Documents for recovery of loss and/or damages to the extent covered, or that should have been covered, by the insurance required of the Subcontractor in the Contract Documents or any other insurance provided by the Subcontractor which is applicable to the Project. Such waivers shall be provided by specific endorsement if the policy itself does not otherwise provide the required language. For other parties required to be provided a waiver by the Contract Documents, but who are not a party to this Subcontract, specific Waivers of Subrogation naming the party(s) must be added to the General Liability, Automobile Liability and Employers Liability.

§ 11.14 PERFORMANCE AND PAYMENT BOND

If Bonds are required as reflected above, Subcontractor, before the earlier of commencement of the Work or five (5) days after executing the Subcontract, must furnish and pay for a Performance Bond and Payment Bond each in the penal sum equal to the Subcontract Sum and on the bond forms set forth in Exhibit "E" to this Subcontract. The Bonds must be issued by a company acceptable to the Contractor and must be accompanied by a Power of Attorney. The Bonds are to be delivered to the Contractor with this executed Subcontract. The Bonds shall name the Contractor as the Obligee, and the costs of such Bonds are included in the Subcontract Sum in this Subcontract. The Bonds shall be issued by Surety, if applicable, which shall maintain at least a minimum A.M. BEST RATING of "A", FSC VII, unless otherwise agreed by Contractor in writing. Notwithstanding any other provisions of the Subcontract to the contrary, failure to timely issue Bonds on the forms attached as Exhibit "E" to this Subcontract, or failure of the Surety, if applicable, to maintain the minimum A.M. BEST RATING of "A", FSC VII shall be deemed a material breach of this Subcontract and shall be grounds for termination of the Subcontract, at the sole discretion of Contractor.

§ 11.15 In the event that this Subcontract will be covered by Contractor's subcontractor default insurance, Subcontractor shall provide all information deemed necessary to Contractor in its sole discretion at any time before, during and/or after the duration of the Project at intervals required by Contractor in its sole discretion for the purposes of pre-qualification, underwriting, enrollment and renewals.

ARTICLE 12 EQUAL OPPORTUNITY COMPLIANCE / NON-DISCRIMINATION

§ 12.1 During the performance of this Subcontract, Subcontractor will not discriminate against any employee or applicant for employment because of race, color, gender, religion, sexual orientation, national origin, or veteran status, and will take affirmative action to ensure that applicants are employed, and employees are treated during their employment without such discrimination. Such action shall include, but not be limited to, employment, promotion, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

§ 12.2 Subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, color, gender, sexual orientation, national origin, religion, age or veterans' status or liability for services in the armed forces of the United States.

§ 12.3 Subcontractor acknowledges that Contractor is subject to various local, state and/or federal laws, executive orders, labor and other contractual agreements and regulations regarding equal opportunity and affirmative action which may also be applicable to Subcontractor and that all applicable equal opportunity and affirmative action requirements shall be incorporated herein as required by law, executive orders, and regulations ("Requirements"). Subcontractor agrees to comply with such Requirements set forth above, and to incorporate them in its own agreements.

§ 12.4 Subcontractor further agrees to maintain appropriate records regarding its compliance with the Requirements, and to make such records available to Contractor as reasonably necessary to enable Contractor to respond to Owner and/or government audits or inquiries regarding Contractor's own EEO/AA programs. Subcontractor shall inform Contractor within ten (10) days of receiving an order to show cause from any governmental entity relating to any issue between Subcontractor and that entity regarding Subcontractor's compliance with the Requirements, including, but not limited to, issues as to the applicability of the Requirements to Subcontractor.

§ 12.5 Consistent with the Requirements, Contractor's company policy prohibits harassment, including, but not limited to, sexual harassment and workplace bullying, of any employee. Subcontractor agrees to uphold and enforce the Contractor's policy against harassment in any form. Subcontractor's foreman or supervisor shall be responsible for the enforcement of this policy and take such measures as are required to prevent harassment of any individual working on the Project by Subcontractor's employees or sub-subcontractors. Subcontractor's employees shall act responsibly to establish a pleasant working environment free of discrimination and harassment. Interference with the policy will result in immediate corrective action, including, but not limited to, the dismissal of personnel from the jobsite as appropriate in Contractor's sole discretion.

ARTICLE 13 DISPUTE RESOLUTION

§ 13.1. The parties recognize that disputes arising out of this Subcontract, including, without limitation, claims for an adjustment to Subcontract Sum or Subcontract Time, may occur, and it is preferable for the parties to reach an amicable resolution without the need to resort to formal dispute resolution proceedings. Accordingly, the parties agree to participate in non-binding mediation conducted by a third-party mediator mutually agreed to by the parties, as a condition precedent to the institution of legal or equitable proceedings by either party unless the Contractor waives this condition precedent. The procedure for requesting mediation begins once one party delivers written notice to the other requesting mediation and specifying the dispute to be mediated. Within thirty (30) days following the receipt of such notice, responsible persons selected by each party shall meet in a good faith effort to resolve the dispute. The holding of such a responsible persons' meeting shall be a condition precedent to mediation. In the event the dispute remains unresolved after mediation then such dispute shall be resolved, at the Contractor's sole discretion, by either (1) arbitration administered by the American Arbitration Association under the rules pertinent to construction disputes then applicable, or (2) in litigation. Mediation shall be a condition precedent to litigation or arbitration, unless delay would irrevocably prejudice Contractor or Subcontractor, in which event the litigation or arbitration, may be commenced but shall be stayed pending mediation under this provision. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. All costs, fees and expenses in resolving disputes under this Subcontract including reasonable attorneys' fees and cost for services rendered in arbitration, litigation, mediation or on appeal including services rendered prior to the filing of any arbitration, litigation or mediation, shall be charged to and paid for by Subcontractor

§ 13.2 Whether mediation, arbitration or litigation, the sole and exclusive venue for any and all legal or equitable proceedings arising out of this Subcontract shall be in Collier County, Florida, unless otherwise mutually agreed by the parties. Each party submit to the jurisdiction of said courts and waives any right to change venue. In the event the applicable law prevents or limits Contractor's sole discretion in selecting the forum or venue, then the dispute shall be resolved in litigation in the state and county where the Project is located, unless the Subcontractor is to be joined by Contractor in proceeding with the Owner, in which case the forum and venue shall be as stated in the Prime Contract.

§ 13.3 Subcontractor expressly waives its right to a trial by jury in any dispute involving Contractor and/or Contractor's surety. Subcontractor further agrees that in the event that it suffers damages, cost or expenses or otherwise intends to pursue a recovery that arises out of or relates to the performance of work by another subcontractor to or under Contractor, Subcontractor's sole remedy shall be as against that responsible subcontractor and Subcontractor shall not pursue a remedy from Contractor. Payment by the Owner, or other responsible party, to the

Contractor shall be a condition precedent to the obligation of the Contractor to pay the Subcontractor for any work, claim, or damage

§ 13.4 All claims, suits or demands by Subcontractor as against Contractor or Owner shall be brought with the earlier of one (1) year following Subcontractor's achieving substantial completion for Subcontractor's Work or within one year of Contractor's notice of default in the event that Contractor has taken any action in accordance with Article 8 and Subcontractor agrees that all relevant statute of limitations shall be deemed reduced to such period of time, to the fullest extent permitted by law. Furthermore, the Subcontractor agrees, upon Contractor's written demand, to become a party to and be bound by any arbitration, litigation or other proceeding involving the Contractor, the Architect or the Owner in the event that such proceedings involve any of the rights or obligations of the Subcontractor under this Subcontract.

§ 13.5 During the pendency of any dispute, including mediation, arbitration or litigation, Subcontractor shall continue with the diligent performance of the Work pursuant to this Subcontract and follow and abide by directions and instructions issued by Contractor. Failure to so proceed shall constitute a material breach of the Subcontract, regardless of the ultimate decision on the dispute.

ARTICLE 14 TERMINATION FOR CONVENIENCE

§ 14.1 Contractor, by written notice to the Subcontractor, shall have the right at any time for any reason to terminate this Subcontract and require Subcontractor to cease all work hereunder. Upon such termination for convenience, Subcontractor shall be entitled to the lesser of the actual direct costs of the Work properly completed prior to the termination less any amounts for which Subcontractor is liable pursuant to this Subcontract or the amount that the Owner has paid to the Contractor for the Work up to the time of termination. Such compensation shall be the Subcontractor's sole and exclusive remedy for any such termination, and the Subcontractor waives any claim for loss of anticipated profits or other damages in the event the Contractor exercises its rights pursuant to this Section. To the fullest extent permitted by law, receipt of payment from Owner for such termination shall be a condition precedent to Subcontractor's right to receive payment hereunder.

ARTICLE 15 COMPLIANCE WITH LAWS

§ 15.1 Subcontractor shall obtain and pay for all necessary permits and licenses pertaining to the Work and shall comply with all Federal, State, Municipal and local laws, ordinances, codes, rules, regulations, standards, orders, notices and requirements, including but not limited to those relating to safety, storm water management, discrimination in employment, fair employment practices, immigration laws or equal employment opportunity, and whether or not provided for by the Contract Documents, without additional charge or expense to Contractor and shall also be responsible for and correct, at its own cost and expense, any violations thereof resulting from or in connection with the performance of the Work. Each requisition for payment shall constitute a representation and warranty that Subcontractor is in compliance with applicable law.

ARTICLE 16 SAFETY PRECAUTIONS AND PROCEDURES

§ 16.1 The Subcontractor is responsible to provide a safe and healthy work site for Subcontractor's employees. Subcontractor shall, at all times, comply with all Right to Know Law, as enacted by the State where the Work is being performed, OSHA regulations and Contractor's Safety Program as set forth in Exhibit S, all safety requirements of Owner, Contractor, Owner's or Contractor's insurance carriers, all applicable laws, codes, rules, regulations, ordinances and orders of the locality in which the Work is performed, and, to the fullest extent permitted by law, shall defend, indemnify and hold the Contractor and Owner harmless from any and all fines, penalties, claims, damages, or losses resulting in a violation of the provisions of this Section. Any of Subcontractor's employees who report for work under the influence of intoxicants or narcotics or engage in the consumption of them on the Project site or during the work day shall be immediately removed from the Project site by the Subcontractor. Additionally, any of Subcontractor's employees who engage in horseplay, fistfights, unsafe acts, whistling, yelling at the public or obscene gestures shall be immediately removed from the Project site by the Subcontractor. Weapons of all types, including firearms, are strictly forbidden on the Project site. Subcontractor agrees to remove from the Work and the Project any worker or supervisor against whom the Contractor, Owner or Architect has objection. The Subcontractor and its employees are hereby required to conform to the policies included in Exhibit S. Failure to comply with the safety procedures as outlined herein or in Exhibit S may result, at the Contractor's sole discretion, in immediate termination of this this Subcontract.

§ 16.2 Subcontractor shall notify the Contractor's representative on the job site within twenty-four (24) hours of any accident, injury or damage to any persons or property on the Project site or related to the Project and shall promptly provide the Contractor's representative a complete copy of all accident reports, photographs, and other documentation related to such accident in forms acceptable or requested by the Contractor. All such reports shall be signed by the

Subcontractor or an authorized representative of the Subcontractor and shall be submitted to the Contractor no later than five (5) calendar days from the date of such occurrence.

ARTICLE 17 ASSIGNMENT OF THE SUBCONTRACT

§ 17.1 In the event of termination of the Prime Contract by the Owner, the Contractor may assign this Subcontract to the Owner, with the Owner's agreement, subject to the provisions of the Prime Contract and to the prior rights of the surety, if any, obligated under bonds relating to the Prime Contract. In such event, the Owner shall assume the Contractor's rights and obligations under the Contract Documents.

§ 17.2 Without prior written consent of the Contractor, the Subcontractor shall not (1) assign the Work of this Subcontract; (2) subcontract the whole of this Subcontract without the written consent of the Contractor; or (3) further subcontract portions of this Subcontract.

ARTICLE 18 MISCELLANEOUS PROVISIONS

§ 18.1 Discipline. Subcontractor shall, at all times, enforce strict discipline and good order among its employees and the employees of its sub-subcontractors and suppliers and shall not employ any person who does not possess the requisite skills for the Work, including any task assigned to that person, or is otherwise unfit perform the Work. At any time, the Contractor, in its sole discretion, shall have the right to reject employees of the Subcontractor or sub-subcontractors or laborers contracted to Subcontractor for performing the Work on this Project. The Contractor's right to reject the employees of Subcontractor or sub-subcontractor or the Subcontractor's labor force may be exercised for reason, including, without limitation, suspected drug or alcohol use, incompatibility with other workers, lack of performance, or for any other purpose.

§ 18.2 Storage and Staging. When the conditions of the jobsite allow in the sole discretion of the Contractor, the Contractor shall arrange suitable areas for storage and staging of the Subcontractor's materials and equipment during the course of the Work, provided that Subcontractor assumes the risk of loss or damage to any materials, equipment, trailers or tools stored on-site. Furthermore, Contractor shall have no liability to the Subcontractor for the security of any property, tools, equipment, materials or Work the Subcontractor has stored on or off-site.

§ 18.3 Clean-Up. The Subcontractor shall, at its own cost and expense, (1) keep the Project and surrounding area free from accumulation of waste materials and other rubbish accumulated in connection with the execution of the Work and shall remove the same in accordance with the directives of the Contractor and in accordance with the cleaning requirements of the Contract Documents as it applies to the Work, and (2) clean and remove from the Work and from all contiguous work of other subcontractors any soiling, staining, mortar, plaster, concrete, overspray, drippings, splatter or other similar items arising out of the Subcontractor's Work. The Subcontractor shall clean up and broom clean its work site daily and as may be required by Contractor. On a daily basis, Subcontractor shall remove all its waste materials and rubbish from and about the Project to a centrally located dumpster provided by others (unless Exhibit A provides otherwise), as well as properly store its tools, construction equipment, machinery and surplus materials. Subcontractor shall cooperate in commingled clean-up to remove general debris and trash from the Project site as directed by the Contractor and set forth in Exhibit A. If, in the opinion of the Contractor, the Subcontractor fails to keep the premises clean as provided in this §18.3, the Contractor, upon twenty-four (24) hours written notice to Subcontractor, may clean and remove waste materials or rubbish from the premises and surrounding area and charge the Subcontractor for its share of cleanup costs.

§ 18.4 Protection of the Work. The Subcontractor shall take necessary precautions to properly protect the Work and the work of other subcontractors from damage caused by operations under this Subcontract. Subcontractor shall pay all costs to repair damage to other work caused by Subcontractor or those under the Subcontractor's control and shall indemnify, defend, and hold Contractor harmless for any such damage. Subcontractor further agrees to furnish continuous and effective protection at all times for his own Work-in-place and all materials stored for use under the Subcontract, and to be solely liable for all loss and/or damage of any kind to or in connection with said Work and materials at any time prior to the final completion and acceptance thereof, unless said loss or damage is caused by the sole negligence of the Contractor; and to pay or reimburse the Contractor on account of any damage or injury to the work or property of the Owner, the Contractor and other subcontractors caused by or arising from the performance of its Work as provided in the Subcontract, including the cost of replacing, repairing, refinishing or restoring any work damaged, removed or displaced in the course of correcting or repairing work or replacing materials hereunder which are rejected by the Owner, the Owner's Architect or Engineer or which are deemed to be at variance with the requirements of the Subcontract.

§ 18.5 Emergency Contact List. Subcontractor shall furnish to the Contractor a properly executed Emergency Telephone Number Information Sheet to be used in the event of emergency outside of working hours. Such information must be provided in advance of first payment being issued to Subcontractor.

§ 18.6 Signage. Subcontractor shall not, without the prior written consent of the Owner and Contractor, install or maintain any sign, trademark or advertisement or other identification symbol on or about the Project (including, but not limited to any tower cranes, manlifts, scaffolding or similar equipment). Contractor and Owner shall have the right, at the Subcontractor's expense and without notice to the Subcontractor, to remove any sign, trademark, advertisement or other identification symbol installed in violation of this Paragraph.

§ 18.7 Textura Construction Payment Management System. Subcontractor shall submit all pay applications for this Project through Textura. Subcontractors must open and maintain a Textura account for billing purposes until completion of this Project. The cost to use Textura is 0.22% of the Subcontract Sum (this is the cost of Subcontractor's proposal multiplied by 0.0022), with a maximum fee of \$3,750.00. Subcontractor acknowledges and agrees that this fee for Textura has been included in the Subcontract Sum. On or around the 10th day of each month, Subcontractor will be notified electronically by Contractor that the current draw period is open and accessible for the submission of Subcontractor's pay application and all supporting documentation for that pay period. Once the pay application is approved, Subcontractor will be notified electronically by Contractor when funding for the applicable draw period has been received from Owner. An electronic payment will be issued to the Subcontractor through Textura in accordance with the terms and conditions of the Subcontract. Textura shall be interpreted to be in harmony with the other terms and conditions of this Subcontractor Agreement, and not in lieu of such provisions, terms or conditions. Subcontractor shall promptly execute all documents necessary to register, enroll and use Textura. Subcontractor shall be solely responsible for all fees and costs associated with Textura as outlined in this Section and agrees to timely pay all such fees as charged by Textura. Subcontractor shall ensure that it and anyone that is providing labor, services or materials under Subcontractor complies with the use of Textura. Select Subcontractors may participate in the DeAngelis Diamond Early Payment Option through Textura Subcontractor Direct Financing ("SDF") in accordance with Exhibit P.

§ 18.8 Work Week. Subcontractor shall comply with the Contractor's standard project workweek as designated by the Contractor's Superintendent.

§ 18.9 Calendar Days. All references to days stated in this Subcontract are Calendar days, unless otherwise stated in the Subcontract.

§ 18.10 Daily Reports. Subcontractor shall complete the Daily Report in the form set forth in Contractor's Procore site on a daily basis. At a minimum, the Daily Report shall contain the following information: the date, description of manpower, Work locations, progress of the Work, deliveries and any problem situations or delays. Subcontractor shall complete and submit each Daily Report by 5 p.m. on the work day covered in the Daily Report.

§ 18.11 Confidentiality. Subcontractor shall keep all information relating to the Project and the Work and all information supplied to Subcontractor by the Contractor or Owner as confidential and proprietary information of the Contractor, Owner and Architect and shall not permit its release to other parties or make any public announcement or release without the express written consent of the Contractor.

§ 18.12 Severability. If any term or provision of this Subcontract shall be finally determined to be superseded, invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provisions or parts of provisions of this Subcontract, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

§ 18.13 Waiver. No action, failure or delay by Contractor in exercising any right, power, or privilege hereunder shall operate as a waiver of any right, power, or privilege hereunder. No single or partial exercise of any right, power, or privilege by Contractor shall preclude the further or full exercise thereof.

§ 18.14 Negotiated Agreement. This Subcontract is a negotiated agreement between the parties, and the parties agree that it shall not, as a matter of judicial interpretation or construction, be construed more severely against one of the parties than the other.

§ 18.15 Jurisdiction. This Subcontract and any disputes arising from or out of this Subcontract shall be constructed and enforced in accordance with the laws of the State of Florida, without regard to choice of law principles.