



Lic.# 67143, 67144, 67224, 67387

COMMERCIAL CONTRACTING CORPORATION

**4260 NORTH ATLANTIC BOULEVARD
AUBURN HILLS, MICHIGAN 48326**

SUBCONTRACT NO. :

Subcontract Agreement

THIS SUBCONTRACT is dated _____ by and between COMMERCIAL CONTRACTING CORPORATION
(hereinafter "COMMERCIAL")

AND

(hereinafter "SUBCONTRACTOR")

Phone:
Fax:

WITNESSETH:

WHEREAS, COMMERCIAL and _____ (hereinafter "Owner"), which term shall cover all Owner's representatives including, as appropriate, the Architect or Construction Manager) have entered into a contract for the construction or improvement of:

(hereinafter "Project"), according to the Contract Documents listed in Exhibit A attached hereto (hereinafter "Contract Documents and Scope of Work") and available for SUBCONTRACTOR review; and

WHEREAS, COMMERCIAL desires to subcontract certain work specified in the Contract Documents, and SUBCONTRACTOR desires to perform said work at the prices and upon the terms and conditions hereinafter expressed;

NOW, THEREFORE, in consideration of the mutual agreements herein expressed, the parties do contract as follows:

1. Subcontractor Work

- a. SUBCONTRACTOR shall perform all work and shall furnish all supervision, labor, materials, plant, scaffolding, hoists, tools, equipment, supplies, safety precautions and devices and all other things necessary for the construction and completion of the work described in Exhibit A in strict accordance and full compliance with the terms of this Subcontract, and to the satisfaction of COMMERCIAL and Owner.
- b. With respect to work covered by this Subcontract, SUBCONTRACTOR shall have all rights which COMMERCIAL has under the Contract Documents, and SUBCONTRACTOR shall assume towards COMMERCIAL all obligations, risks and responsibilities which COMMERCIAL has assumed towards Owner in the Contract Documents. SUBCONTRACTOR shall have the right to enforce its rights and remedies and to defend against claims against it by the Owner as provided in paragraph 11.

2. Complete Agreement

This Subcontract contains the entire agreement between the parties hereto with respect to the matters covered herein. No other agreements, representations, warranties, or other matters, oral or written, shall be deemed to bind the parties hereto.

3. Payment

- a. COMMERCIAL shall pay SUBCONTRACTOR for performance of the work, subject to additions and deletions by change order or other Subcontract provisions, the total sum of:
(\$)

- b. The SUBCONTRACTOR hereby agrees that as a condition precedent to COMMERCIAL'S obligation to make any payment to the SUBCONTRACTOR under this Subcontract, COMMERCIAL must receive payment therefor from the Owner. In the event that COMMERCIAL does not receive all or any part of the payments from the Owner in respect to the work provided by the SUBCONTRACTOR pursuant to this Subcontract, whether because of a claimed defect or deficiency in the work, or for any other reason, COMMERCIAL shall not be liable to the SUBCONTRACTOR for any such sums in relation thereto.
- c. Partial payments shall be due on or about five (5) days following receipt of payment by COMMERCIAL from Owner. No partial payment made under this Subcontract shall be considered an acceptance of the work, in whole or in part, nor a waiver of any of COMMERCIAL'S rights hereunder.
- d. SUBCONTRACTOR accepts each payment in trust and shall ensure that all SUBCONTRACTOR'S, employees and suppliers, at all times, are paid all amounts due in connection with the performance of this Subcontract. COMMERCIAL shall have the right to withhold any partial payment(s) due hereunder until SUBCONTRACTOR submits evidence satisfactory to COMMERCIAL and determines, in its sole discretion, that amounts owed by SUBCONTRACTOR in connection with performance of this Subcontract have been paid. Further, SUBCONTRACTOR agrees that COMMERCIAL may, in its sole discretion, pay all persons who have not been paid the monies due them in connection with this Subcontract whether or not a lien has been filed, and SUBCONTRACTOR shall, to the extent that COMMERCIAL has not recovered said amounts pursuant to withholding, pay said amounts to COMMERCIAL upon demand. SUBCONTRACTOR shall also immediately reimburse COMMERCIAL for any amounts paid under COMMERCIAL'S payment bond, if any, in connection with this Subcontract and indemnified by COMMERCIAL. In the event COMMERCIAL is required to pay or indemnify any person as a result of any act or omission to act required of SUBCONTRACTOR hereunder, SUBCONTRACTOR shall immediately reimburse COMMERCIAL for the full cost thereof, including attorneys fees as applicable. Nothing in the paragraph shall be construed to confer a direct benefit upon a person not a party to this Subcontract.
- e. All material and work covered by partial payments shall become the property of COMMERCIAL or, if the Contract Documents so provide, the property of Owner, provided, however, this provision shall not relieve SUBCONTRACTOR from sole responsibility and liability for all work and materials upon which payments have been made until final acceptance thereof by Owner or for such longer period as provided for under the contract documents or applicable law.
- f. COMMERCIAL may withhold amounts otherwise due under this Subcontract or other contractual arrangements between the parties to cover costs or liabilities incurred by COMMERCIAL for which SUBCONTRACTOR is responsible.
- g. Final payment, subject to withholdings permitted hereunder, shall be made after SUBCONTRACTOR work has been completed and approved by COMMERCIAL and Owner, satisfactory proof of payment of all amounts owed by SUBCONTRACTOR in connection with this Subcontract has been provided to COMMERCIAL, SUBCONTRACTOR has submitted a final release and waiver of all liens and claims in a form acceptable to COMMERCIAL and Owner, and COMMERCIAL have received final payment for SUBCONTRACTOR work from Owner. Receipt of said final payment from Owner shall be a condition precedent to any obligation of COMMERCIAL to pay SUBCONTRACTOR, provided, however, that COMMERCIAL shall use its best efforts to obtain prompt payment from Owner of said final payment for SUBCONTRACTOR work and upon receipt of same shall promptly pay same to SUBCONTRACTOR. Final payment shall operate as a release of all claims asserted against COMMERCIAL prior thereto and not reserved in writing.

4. Subcontractor Investigations and Representation

SUBCONTRACTOR represents that it is fully qualified to perform this Subcontract, and acknowledges that, prior to the execution of this Subcontract, it has (a) by its own independent investigation ascertained (i) the work required by this subcontract (ii) the conditions involved in performing the work including all safety considerations, and (iii) the obligations of this Subcontract and the Contract Documents, and (b) verified all information furnished by COMMERCIAL or others satisfying itself as to the correctness and accuracy thereof. Any failure by SUBCONTRACTOR to independently investigate and become fully informed will not relieve SUBCONTRACTOR from its responsibilities hereunder.

5. Performance and Payment Bonds

- a. Immediately upon receipt of this Subcontract, SUBCONTRACTOR shall at the expense of _____ furnish to COMMERCIAL performance and payment bonds in a form, and from a surety, acceptable to COMMERCIAL in the full amount of this Subcontract.
- b. _____ No bond is required. Paragraph 5a is not applicable when this space has been initialed by both parties.

- c. If SUBCONTRACTOR has not been required to furnish bond(s) or if COMMERCIAL desires SUBCONTRACTOR to provide additional bond coverage, COMMERCIAL may, at anytime upon written request, instruct SUBCONTRACTOR to provide, within ten (10) days, performance and payment bonds, in a form, and a surety, acceptable to COMMERCIAL, in an amount up to the then current full value of this Subcontract. In this event, COMMERCIAL will reimburse SUBCONTRACTOR the amount of the bond cost.

6. Subcontractor Liability

- a. Subcontractor hereby assumes the entire responsibility and liability for all work, supervision, labor, safety and materials provided hereunder, whether or not erected in place, and for all plant, scaffolding, tools, equipment, supplies and other things provided by SUBCONTRACTOR until final acceptance of the work by Owner. In the event of any loss, damage or destruction thereof from any cause, SUBCONTRACTOR shall be liable therefor, and shall repair, rebuild and make good said loss, damage or destruction at SUBCONTRACTOR cost.
- b. Subcontractor Indemnification: To the fullest extent permitted by law, the SUBCONTRACTOR shall secure, protect, defend, hold harmless, and indemnify COMMERCIAL and its agents, servants and employees as well as the OWNER, the ARCHITECT, the PROGRAM/CONSTRUCTION MANAGER, GENERAL/PRIME CONTRACTOR, their subcontractors and sub-subcontractors on the Project (hereafter referred to as "INDEMNIFIED PARTIES") and their agents, servants and employees against any and all loss, cost, claim, suit, expense or demand attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of tangible property including loss of use therefrom (including actual costs and attorneys fees) and any other liability whatsoever arising out of, connected with or incident to the performance of all work in connection with the Contract or any Modification or addition thereto, (including any extra work assigned to the SUBCONTRACTOR) based upon any act or omission, negligent or otherwise, of the SUBCONTRACTOR, it's SUBCONTRACTORS or materialmen, any of their respective employees, agents or servants and representatives, and any other person or persons directly or indirectly employed by them regardless of whether or not such loss, cost, claim, suit or expense is caused in part by an INDEMNIFIED PARTY, its agents, servants and employees. The acts or omissions of the Subcontractor include, but are not limited to:
 - 1. The violation of any federal, state or local laws, ordinances, building rules and regulations or other statutory provisions, including environmental laws and safety rules and regulations;
 - 2. The performance of faulty work, work that is performed at variance to the Contract requirements or work omitted; or
 - 3. The failure to comply with any of the terms, conditions, requirements or standards set forth in the Contract; or
 - 4. The Contractor's default under the Contract as specified Exhibit A; or
 - 5. The violation or infringement of any proprietary rights, including, without limitation, any rights under any patent, trademark, copyright, mask work or trade secret; or
 - 6. The failure to pay any applicable federal, state or local taxes, fees, duties, impost or other amounts that the SUBCONTRACTOR is obligated to pay.
- c. Such obligations under this subcontractor indemnification agreement shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this agreement.

If any portion of this indemnification agreement is ruled invalid by a court of law, this shall not serve to invalidate any other portion of this indemnification agreement.
- d. In the event that the SUBCONTRACTOR or any of its employees, agents, suppliers, or lower tier SUBCONTRACTOR'S utilize any machinery, equipment, tools, scaffolding, hoist lifts or similar items belonging to or under the control of COMMERCIAL, the SUBCONTRACTOR shall defend and indemnify COMMERCIAL for any loss or damage (including personal injury or death) which may arise from such use, except where such loss or damage shall be found to have been due solely to the negligence of COMMERCIAL'S employees operating COMMERCIAL-owned or COMMERCIAL-leased equipment.
- e. SUBCONTRACTOR assumption of liability is independent from, and not limited in any manner by, the SUBCONTRACTOR insurance coverage obtained pursuant to paragraph 7 or otherwise. All amounts owed by SUBCONTRACTOR to COMMERCIAL as a result of the liability provisions of this Subcontract shall be paid upon demand.
- f. SUBCONTRACTOR liability for costs incurred by COMMERCIAL under this Subcontract shall include a 10% markup. This markup is not a penalty but is established as

liquidated damages to compensate COMMERCIAL for its administrative costs and/or to allow COMMERCIAL a reasonable profit on work which COMMERCIAL must perform, or costs which COMMERCIAL must incur, as a result of SUBCONTRACTOR failure to properly perform.

- g. With respect to any claims for and against which SUBCONTRACTOR mistakenly or wrongfully neglects or refuses to indemnify, defend and hold harmless an INDEMNIFIED PARTY, SUBCONTRACTOR shall be obligated to fully and completely reimburse not only any and all sums an INDEMNIFIED PARTY may be required to pay on such claims, but in addition thereto, any and all reasonable and necessary attorneys' fees, costs and expenses incurred by an INDEMNIFIED PARTY in the prosecution of any action against SUBCONTRACTOR necessary to establish the INDEMNIFIED PARTY'S right to indemnity.

7. Subcontractor Insurance

The SUBCONTRACTOR and its lower tier subcontractors shall, during the continuance of the Work under the Contract and until one year elapses from the date of final acceptance of the work, including extra work in connection therewith, maintain the following insurance coverages:

- a. Worker's compensation, employer's liability insurance, and any insurance required by any employee benefit acts or other statutes applicable where the Work is to be performed. All such insurance shall be in amounts sufficient to protect the SUBCONTRACTOR and first lower tier subcontractors from any liability for bodily injury, sickness or disease (including death resulting at any time therefrom) of any of their employees, including any liability or damage which may arise by virtue of any statute or law in force or which may hereafter be enacted.
- b. Commercial general liability insurance (at least as broad as ISO form CG 00 01 01 96) providing premises and operations, products and completed operations, contractor's protective and contractual liability coverages) in an amount not less than One Million Dollars per occurrence as protection against risks of damage or destruction of property or bodily injury, sickness or disease (including death resulting any time therefrom) of persons, wherever located, resulting from any action, omission or operation under the contract or in connection with the work. The policy's "general aggregate" limit must be written on a "per project" or "per premises" basis. This policy shall name COMMERCIAL, the Owner and other INDEMNIFIED PARTIES as additional insured for "ongoing operations" (CG 20 10) as well as "completed operations" (CG 20 37) or their equivalent. The SUBCONTRACTOR'S commercial general liability insurance policy shall provide primary and non-contributory coverage as respects COMMERCIAL the OWNER and other INDEMNIFIED PARTIES as additional insureds.
- c. If the SUBCONTRACTOR is an architect or engineering firm, the SUBCONTRACTOR must also carry "architects and engineers professional errors and omissions liability insurance" in the amount of \$1,000,000.00 per claim and \$2,000,000.00 annual aggregate. Among other things, this insurance shall provide the SUBCONTRACTOR with coverage for liability of others assumed by the SUBCONTRACTOR under any contract or agreement when such liability for damages arises from the SUBCONTRACTOR'S negligent acts, errors or omissions in the rendering of or failure to render the Professional Services of an architect and engineering firm, or the negligent act, error or omission of the SUBCONTRACTOR'S subcontractor.
- d. The SUBCONTRACTOR and its lower tier subcontractors shall maintain, at their own expense, automobile liability insurance (at least as broad as ISO form CA 00 01 07 97) covering the use of all owned, non-owned and hired automobiles and rolling stock with a combined single limit of \$1,000,000 for bodily injury and property damage liability.
- e. Excess liability insurance in umbrella form over all required underlying liability coverages. The total limit per occurrence shall not be less than Five (5) Million Dollars excess of primary coverage and five (5) Million Dollars in aggregate for one annual policy period.
- f. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Michigan or such other state in which the work will be done. All required insurance policies shall provide primary and non-contributory coverage as respects COMMERCIAL the OWNER, and all other INDEMNIFIED PARTIES as additional insureds. Before starting work, the SUBCONTRACTOR shall file with COMMERCIAL certificates of the insurance coverages required to be maintained by the SUBCONTRACTOR, evidencing such insurance and endorsements.

8. Time of Performance

- a. SUBCONTRACTOR shall proceed with the work in a prompt and diligent manner, in accordance with COMMERCIAL'S schedule as reasonably amended from time to time. TIME IS OF THE ESSENCE. SUBCONTRACTOR shall be entitled to additional time for compliance with schedule amendments only to the extent that COMMERCIAL receives same from Owner.

- b. If requested by COMMERCIAL, SUBCONTRACTOR shall submit a detailed schedule of performance of the Subcontract, in a form acceptable to COMMERCIAL, which shall comply with all scheduling requirements of the Contract Documents and of paragraph 8a above. COMMERCIAL may, at its sole discretion, direct SUBCONTRACTOR to make modifications and revisions in said schedule.
- c. SUBCONTRACTOR shall coordinate its work with the work of COMMERCIAL, other SUBCONTRACTOR'S, and Owner's other contractors, if any, so no delays or interference will occur in the completion of any part or all of the Project.

9. Changes

- a. COMMERCIAL may, at any time, unilaterally or by agreement with SUBCONTRACTOR, and without notice to SUBCONTRACTOR sureties, if any, make changes in the work covered by this Subcontract. Any unilateral order or agreement under this paragraph 9(a) shall be in writing. SUBCONTRACTOR shall perform the work as changed without delay.
- b. SUBCONTRACTOR shall submit any claims for adjustment in the price, schedule, or other provisions of the Subcontract, in the event said claims result from changes initiated by Owner or deficiencies or discrepancies in the Contract Documents, to COMMERCIAL. Said claims shall be submitted in writing by SUBCONTRACTOR in time to allow COMMERCIAL to comply with the applicable provisions of the Contract Documents. COMMERCIAL shall process said claims in the manner provided by and according to the provisions of the Contract Documents so as to protect the interest of SUBCONTRACTOR and others, including COMMERCIAL. Subcontract adjustments shall be made only to the extent that COMMERCIAL receives relief from or must grant relief to Owner. Further, each subcontract adjustment shall be equal only to SUBCONTRACTOR allocable share of any adjustment in COMMERCIAL'S contract with Owner. SUBCONTRACTOR allocable share shall be determined by COMMERCIAL'S normal overhead, profit and other interest in any recovery, by making a reasonable apportionment, if applicable, between SUBCONTRACTOR, COMMERCIAL and other SUBCONTRACTOR'S or persons with interests in the adjustment. This paragraph shall also cover other equitable adjustments or other relief allowed by the Contract Documents.
- c. For changes ordered by COMMERCIAL independent of the Owner of the Contract Documents, SUBCONTRACTOR shall be entitled to an equitable adjustment in the Subcontract price.
- d. If requested by COMMERCIAL, a SUBCONTRACTOR shall, within seven (7) calendar days, submit a reasonable price quotation for proposed changes. If SUBCONTRACTOR does not and COMMERCIAL is required to submit a price quotation to Owner which includes a change in the SUBCONTRACTOR scope of work, COMMERCIAL shall use its best estimate of the proposed change as it affects COMMERCIAL SUBCONTRACTOR in its quotation to Owner, which estimate thereafter shall be the maximum equitable adjustment due SUBCONTRACTOR.

10. Subcontractor Failure to Perform

- a. If, in COMMERCIAL'S opinion the SUBCONTRACTOR shall at any time (1) refuse or fail to provide sufficient properly skilled workmen or materials of the proper quality, (2) fail in any respect to prosecute the work according to the current schedule, (3) cause, by any action or omission, the stoppage or delay of or interference with the work of COMMERCIAL or of any other builder or SUBCONTRACTOR, (4) fail to comply with any of the provisions of this Subcontract or the Contract Documents, (5) have an order of relief entered under the bankruptcy Code, or make a general assignment for the benefit of its creditors, (6) have a receiver appointed, (7) become insolvent or a debtor in reorganization proceedings, or (8) by any other action, indicate an unwillingness or inability to perform, or continue performing, hereunder then, after serving three (3) days' written notice, unless the condition(s) specified in such notice shall have been eliminated within such three (3) days, COMMERCIAL may, at its option (i) without voiding the other provisions of this Subcontract and without notice to SUBCONTRACTOR sureties, if any, take such steps as are necessary in COMMERCIAL'S reasonable discretion, to overcome the condition(s), in which case the SUBCONTRACTOR shall be liable to COMMERCIAL for the full cost thereof, (ii) terminate the Subcontract for default, or (iii) seek specific performance of SUBCONTRACTOR obligations hereunder, it being agreed by SUBCONTRACTOR that specific performance may be necessary to avoid irreparable harm to COMMERCIAL and/or Owner. In the event of termination for default, COMMERCIAL may, at its option (a) enter on the premises and take possession, for the purpose of completing the work, of all materials and equipment of Subcontract, (b) require SUBCONTRACTOR to assign to COMMERCIAL any or all of SUBCONTRACTOR subcontracts or purchase orders involving the Project, or (c) either itself or through others complete the work, by whatever method COMMERCIAL may deem expedient. In case of termination for default, SUBCONTRACTOR shall not be entitled to receive any further payment until the work shall be fully completed and accepted by Owner. At such time, if the unpaid balance of the price to be paid shall exceed the reasonable expense incurred by COMMERCIAL, such excess shall be paid by COMMERCIAL

to SUBCONTRACTOR. If such amount due shall exceed such unpaid balance then SUBCONTRACTOR shall pay COMMERCIAL the difference.

11. Settlement of Disputes

- a. In case of any dispute between COMMERCIAL and SUBCONTRACTOR due to any action of Owner or involving the Contract Documents, SUBCONTRACTOR agrees to be bound to COMMERCIAL the same extent that COMMERCIAL is bound to Owner by the terms of the Contract Documents, and by any and all preliminary and final decisions or determinations made thereunder by the party or court so authorized in the Contract Documents or by law, whether or not SUBCONTRACTOR is a party to such proceedings. In case of such dispute, SUBCONTRACTOR shall comply with all provisions of the Contract Documents allowing a reasonable time for COMMERCIAL to analyze and forward to Owner any required communications or documentation. COMMERCIAL will, at its option, (1) present to Owner, in COMMERCIAL'S name or (2) authorize SUBCONTRACTOR to present to Owner, in COMMERCIAL'S name, all of SUBCONTRACTOR claims and answer Owner's claims involving SUBCONTRACTOR work, whenever COMMERCIAL is permitted to do so by the terms of the Contract Document. COMMERCIAL will further invoke on behalf of SUBCONTRACTOR, or allow SUBCONTRACTOR to invoke, those provisions in the Contract Documents for determining disputes. If such dispute is prosecuted or defended by COMMERCIAL, SUBCONTRACTOR agrees to furnish all documents, statements, witnesses, and other information required by COMMERCIAL, and to pay or reimburse COMMERCIAL for all reasonable costs incurred in connection therewith. The Subcontract price shall be adjusted by SUBCONTRACTOR allocable share determined in accordance with paragraph 9 hereof. Pending resolution of any such dispute, SUBCONTRACTOR shall proceed with its work without interruption or delay.
- b. With respect to any controversy between COMMERCIAL and SUBCONTRACTOR not involving Owner or the Contract Documents, COMMERCIAL shall issue a decision which shall be followed by SUBCONTRACTOR, who shall proceed under protest without interruption, deficiency, or delay. If the SUBCONTRACTOR is found to have been correct as to the controversy, SUBCONTRACTOR shall be entitled to an equitable adjustment in the contract price as its sole remedy. Notification of any such claim for equitable adjustment must be asserted in writing within three (3) days of the occurrence giving rise to said claim or it shall be deemed waived.
- c. SUBCONTRACTOR agrees that COMMERCIAL shall have the sole discretion to elect to demand arbitration with the SUBCONTRACTOR for any dispute or claim arising out of, or relating to this Subcontract or breach thereof, or performance thereof, and if arbitration is elected by COMMERCIAL, then, the arbitration shall be decided by arbitration in accordance with the Construction Industry Rules of the American Arbitration Association. Arbitration proceedings shall be held in Clark County, Nevada at the offices of the American Arbitration Association or such other place as designated by COMMERCIAL. In the event that COMMERCIAL shall elect not to demand arbitration, then the matter shall proceed in a court of competent jurisdiction for the dispute. The venue for any court proceeding shall be in a court of competent jurisdiction located in the County of Oakland, State of Michigan. The decision and award of the arbitrators shall be final and binding upon both parties, and judgment may be entered upon it in accordance with application law in any court having jurisdiction thereof.
- d. SUBCONTRACTOR agrees that COMMERCIAL shall have no liability or obligation to pay SUBCONTRACTOR for any claim asserted by SUBCONTRACTOR arising out of acts of failure to act, (including but not limited to delays, acceleration, or changes) of the Owner including its agents or representatives, except to the extent COMMERCIAL receives payment from the Owner for the specific claim asserted by the Owner.

12. Warranty

SUBCONTRACTOR warrants its work hereunder to COMMERCIAL on the same terms, and for the same period, as COMMERCIAL warrants the work to Owner under the Contract Documents; and, with respect to SUBCONTRACTOR work, SUBCONTRACTOR shall perform all warranty obligations and responsibilities assumed by COMMERCIAL under the Contract Documents.

13. Liens

- a. In the event that liens are filed by anyone in relation to the labor and/or material being furnished by SUBCONTRACTOR, SUBCONTRACTOR agrees to have the same discharged, by posting a bond with the appropriate authorities, or otherwise, within fourteen (14) calendar days of notice from COMMERCIAL. In the event such lien is not so discharged, COMMERCIAL shall have the right to terminate this Subcontract for default pursuant to paragraph 10 hereof or to bond-off said lien(s) and recover from SUBCONTRACTOR all costs incurred as a result thereof including, but not limited to, bond premiums and attorneys' fees.
- b. If required by COMMERCIAL, prior to receipt of partial or final payment, as appropriate, SUBCONTRACTOR shall provide COMMERCIAL a partial or final release of its liens and claims and partial or final releases of all liens and claims of all persons furnishing labor and/or materials to SUBCONTRACTOR for the performance of

this Subcontract, and satisfactory evidence that there are no other liens or claims whatsoever outstanding against the work.

14. Inspection and Acceptance

- a. SUBCONTRACTOR shall provide appropriate facilities at all reasonable time for inspection by COMMERCIAL or Owner of the work and materials provided under this Subcontract, whether at the Project site or at any place where such work or materials may be in preparation, manufacture, storage, or installation. SUBCONTRACTOR shall promptly replace or correct any work or materials which COMMERCIAL or Owner shall reject as failing to conform to the requirements of this Subcontract. If SUBCONTRACTOR does not do so within a reasonable time, COMMERCIAL shall have the right to do so and SUBCONTRACTOR shall be liable to COMMERCIAL for the reasonable cost thereof. If, in the sole opinion of COMMERCIAL, it is not expedient to correct or replace all or any part of rejected work or materials, then, COMMERCIAL, at its sole option, may deduct from the payments due, or to become due, to SUBCONTRACTOR, such amount, as in COMMERCIAL'S reasonable judgment, represent (i) the difference between the fair value of the rejected work and materials and the value thereof if it complied with this Subcontract, or (ii) the cost of correction, whichever is higher.
- b. SUBCONTRACTOR remedy for wrongful rejection of work pursuant to paragraph 14a shall be limited to COMMERCIAL'S remedy under the Contract Documents if rejection is by the Owner.
- c. The work shall be accepted according to the terms of the Contract Documents. However, unless otherwise agreed in writing, entrance and use by Owner or COMMERCIAL, shall not constitute acceptance of the work.

15. Inconsistencies and Omissions

Should inconsistencies or omissions appear in the Contract Documents, it shall be the duty of SUBCONTRACTOR to so notify COMMERCIAL in writing within three (3) days of SUBCONTRACTOR discovery thereof. Upon receipt of said notice, COMMERCIAL shall instruct SUBCONTRACTOR as to the measures to be taken, and SUBCONTRACTOR shall comply with COMMERCIAL'S instructions. Nothing herein shall bar SUBCONTRACTOR right to seek adjustment under paragraph 9b.

16. Termination for Convenience

- a. In the event COMMERCIAL'S contract with the Owner contains a termination for the convenience clause which is exercised by the Owner and/or General Contractor, the rights, duties, and obligations of the parties herein shall be governed by the terms of the provisions of the convenience clause exercised by the Owner and/or General contractor.
- b. COMMERCIAL shall, as its sole option and discretion, have the right to terminate the agreement for any reason whatsoever by providing the SUBCONTRACTOR with Notice of Termination to be effective upon five (5) days after receipt by the SUBCONTRACTOR with such notice to be sent by registered mail, return receipt requested. A termination for default of the agreement shall, if wrongfully made, be treated as a termination of convenience under this clause. Whenever the SUBCONTRACTOR is terminated for convenience under this clause or is wrongfully terminated under any other clause of this agreement, the SUBCONTRACTOR shall only be entitled to the actual direct costs of all labor and materials expended on the jobsite prior to the effective date of the termination, plus eight (8) percent for overhead and profit or SUBCONTRACTOR shall be entitled to be paid a pro rata percentage of the total agreement price which is equal to its percent of completion. Whichever of the two methods provides the lowest sum to be paid to the SUBCONTRACTOR. In no event shall the SUBCONTRACTOR be entitled to anticipatory profit or damage for any termination under this clause. In no event shall the SUBCONTRACTOR be entitled to assert a claim in quantum or any other measure of damage other than state herein.

17. Approvals

- a. SUBCONTRACTOR warrants and agrees that it can and will obtain all requisite approvals from Owner as to its eligibility to serve as a SUBCONTRACTOR, and approvals of all materials and performance of the work as required by the Contract Documents.
- b. SUBCONTRACTOR shall deliver to COMMERCIAL copies of shop drawings, cuts, samples and material lists required by COMMERCIAL or the Contract Documents within sufficient time for COMMERCIAL to submit the same within the time stated in the Contract Documents, whichever is earlier. Any deviation from the Contract Documents shall be clearly identified on shop drawings. Notwithstanding any general approval granted by COMMERCIAL or Owner, all work shall be in accordance with the Contract Documents.

18. Clean-Up

SUBCONTRACTOR shall clean its work and remove all debris resulting from its work in a manner that will not impede either the progress of the Project or of other trades.

19. Assignment and Subcontracting

SUBCONTRACTOR shall not assign or transfer this Subcontract, or any funds due hereunder, to a lender, financial institution or any other person, without the prior written consent of SUBCONTRACTOR surety, if any, and COMMERCIAL. All lower-tier subcontracts and purchase orders awarded by SUBCONTRACTOR are subject to the provisions of this Subcontract, and SUBCONTRACTOR shall insert therein all provisions necessary to enable SUBCONTRACTOR to comply with the terms hereof.

20. Patents and Royalties

Except as otherwise provided by the Contract Documents, SUBCONTRACTOR shall pay all royalties and license fees which may be due on the inclusion of any patented materials in the work. SUBCONTRACTOR shall defend all suits or claims for infringement of any patent rights that may be brought against COMMERCIAL or Owner arising out of the work, and shall be liable to COMMERCIAL and Owner for all loss, including all costs and attorneys' fees incurred on account thereof.

21. Taxes and Permits

Except as otherwise provided by the Contract Documents, SUBCONTRACTOR agrees to pay and comply with and hold COMMERCIAL harmless against the payment of all contributions, taxes or premiums which may be payable by SUBCONTRACTOR under Federal, state or local laws arising out of the performance of this Subcontract, and all sales, use or other taxes of whatever nature levied or assessed against Owner, COMMERCIAL, or SUBCONTRACTOR arising out of this Subcontract, including any interest or penalties. SUBCONTRACTOR hereby waives any and all claims for additional compensation because of any increase in the aforementioned taxes unless payment for said increase is specifically provided for in the Contract Documents. SUBCONTRACTOR shall obtain and pay for all permits, licenses, fees and certificates of inspection necessary for the prosecution and completion of its work, and shall arrange for all necessary inspections and approvals by public officials in a timely manner so as not to delay the Project.

22. Laws, Regulations and Ordinances

SUBCONTRACTOR agrees to be bound by, and, at its own cost, comply with all Federal, state and local laws, codes, ordinances and regulations applicable to this Subcontract and the performance of the work hereunder whether by reason of general law or by reason of provisions in the Contract Documents. SUBCONTRACTOR shall be duly licensed to operate under the law of the applicable jurisdiction.

23. Health and Safety

SUBCONTRACTOR and all employees and agents thereof shall comply with the applicable requirements issued pursuant to the Occupational Safety and Health Act of 1970, as amended, and all other applicable Federal, state, local, COMMERCIAL or owner environmental, health and safety laws and regulations. SUBCONTRACTOR shall be liable to COMMERCIAL and Owner for all loss, cost and expense attributable to any acts of commission or omission by SUBCONTRACTOR, its employees and agents resulting from failure to comply therewith, including, but not limited to, any fines, penalties, attorneys' fees or corrective measures.

Prior to commencing any work on a M.U.S.T. Project, SUBCONTRACTOR agrees to provide proof/certification to COMMERCIAL that SUBCONTRACTOR is currently signatory to the M.U.S.T. Program. SUBCONTRACTOR agrees it will comply with all requirements for M.U.S.T. Project/Program, including but not limited to providing a contact person who is responsible for enforcement of drug testing and compliance with M.U.S.T. SUBCONTRACTOR agrees that the failure to comply with the requirements of a M.U.S.T. Project is a material breach of contract and COMMERCIAL may, at the discretion of COMMERCIAL, remove the SUBCONTRACTOR from the Project, and SUBCONTRACTOR shall be responsible for all costs incurred by COMMERCIAL to complete the work required by SUBCONTRACTOR'S contract. Costs shall include all supervision, labor, materials, equipment used to complete the work and shall include administrative costs, including actual attorney fees incurred by COMMERCIAL. Alternatively, COMMERCIAL may assist the SUBCONTRACTOR in compliance with the M.U.S.T. Program. SUBCONTRACTOR agrees that the total costs incurred by COMMERCIAL may be deducted from any amount which is or may become due the SUBCONTRACTOR.

24. Labor

- a. SUBCONTRACTOR and its lower-tier SUBCONTRACTOR'S shall not employ anyone for the Project whose employment may be objected to by COMMERCIAL or Owner.
- b. Should any workers performing work covered by this Subcontract engage in a strike or other work stoppage or cease work due to picketing or a labor dispute of any kind, said circumstance shall be deemed a failure to perform the work on the part of the SUBCONTRACTOR subject to paragraph 10 hereof.

25. Equal Opportunity

In connection with the performance of work under this Subcontract, SUBCONTRACTOR agrees not to discriminate against any employee or applicant for employment because of race, religion, sex, color or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. SUBCONTRACTOR agrees to post hereafter, in conspicuous places, available for employees and applicants for employment, notices, prepared by SUBCONTRACTOR, and approved by the government when required, setting forth the provisions of this paragraph 25.

26. Information Required by Owner

In addition to the information to be provided by SUBCONTRACTOR pursuant to other provisions of this Subcontract, SUBCONTRACTOR hereby agrees to provide, at no additional cost to COMMERCIAL, and in a prompt and timely fashion so as not to disrupt or delay the performance of this Subcontract or the contract between COMMERCIAL and Owner, any and all additional information relating to this Subcontract which is required either by the Contract Documents or by law.

27. Privity

Until the Project is fully completed, SUBCONTRACTOR agrees not to perform any work directly for Owner or any tenants thereof, or deal directly with Owner's representatives in connection with the Project, unless otherwise directed in writing by COMMERCIAL. All work for this Project performed by SUBCONTRACTOR shall be processed and handled exclusively by COMMERCIAL.

28. Notices

All notices shall be addressed to the parties at the addresses set out herein, and shall be considered as delivered when postmarked, or dispatched by registered mail, or when received in all other cases.

29. Severability and Waiver

The partial or complete invalidity of any one or more provisions of this Subcontract shall not affect the validity or continuing force and effect of any other provision. The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Subcontract, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

30. Interpretation of Contract Documents

- a. It is the intention of the parties that all the terms of this subcontract are to be considered as complementary. However, in the event that such an interpretation is not possible, the order of precedence of the documents forming this Subcontract shall be (1) modifications of any documents forming part of this Subcontract; (2) this Subcontract, unless the Contract Documents; (3) the Contract Documents, unless the provisions of (2) apply.
- b. In the event of a conflict between or among modifications, the later in date shall prevail; in the event of a conflict between or among the terms of this Subcontract, the higher standard or greater requirement for SUBCONTRACTOR shall prevail; and in the event of a conflict between or among the terms of the Contract Documents, the higher standard or greater requirement for SUBCONTRACTOR shall prevail.
- c. This agreement shall be construed under and governed by the laws of the state of NEVADA.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have hereunto executed this Subcontract.

COMMERCIAL CONTRACTING CORPORATION

By: _____
(signature of authorized representative)

By: _____
(signature of authorized representative)

(typed name and position of representative)

STEPHEN FRAGNOLI, TREASURER

EXHIBIT A

CONTRACT DOCUMENTS AND SCOPE OF WORK

A. THE CONTRACT DOCUMENTS CONSIST OF THE FOLLOWING:

B. THE SCOPE OF WORK TO BE PERFORMED BY THE SUBCONTRACTOR PURSUANT TO THIS SUBCONTRACT IS AS FOLLOWS:

Initial: _____
CCC

SUBCONTRACTOR