

Master Agreement of Subcontractor Provisions

1) **Contract Documents and Terminology:** The contract documents for subcontract agreement shall consist of this agreement (Master Agreement of Subcontractor Provisions), the individual and separate Specified Purchase Order ('SPO') and any exhibits referred to by the SPO. Contractor shall prepare and provide an SPO as an addendum to this Agreement for each individual project contracted for between Contractor (**Jacor Construction**) and Subcontractor (**Insert Name Here**) The conditions of the contract between the owner and contractor, the drawings and specifications, all addenda issued prior to and all modifications issued after execution of the SPO (change orders) shall form and constitute the subcontract and are as fully a part of the same as if attached or repeated herein. For each and every project contracted between Contractor and Subcontractor, Contractor shall issue the Specified Purchase Order herein referred to as the SPO. An SPO is deemed complete and final upon completion of the subcontractor's specified scope of work, including clean up. The term 'owner' means the entity or person Contractor has entered into a contractual relationship with to perform a construction project referred to within as 'the work'.

2) **Correspondence:** All correspondence from subcontractor to contractor will include the reference project's address and name or Contractor's assigned job number. Job numbers are always identified on SPO under Project title block. All correspondence will be mailed and/or faxed to Contractor's home address: 10612 Prospect Avenue, Suite 101, Santee, CA 92071, phone # 619-562-8183, fax #619-562-1591. Subcontractor will provide home address to contractor prior to issuance of SPO. Subcontractor must notify contractor of any change of home address prior to change taking effect.

3) **Change Orders:** The subcontractor shall not proceed with any change order work without a signed change order document provided by Contractor. The subcontractor hereby agrees to make any and all changes, furnish the materials and perform the work the Contractor may require without nullifying the agreement, at a reasonable addition to or reduction of the contract price stated within the individual purchase order for each project (The SPO). Subcontractor shall adhere strictly to the plans and specifications unless a change therefrom is authorized in writing from the Contractor. Under no circumstances shall subcontractor make any changes to the conditions and terms of the SPO, either as additions or deletions, without the written order of the Contractor and Contractor shall not pay claims for extra charges made by the subcontractor that have not been agreed upon in writing.

3.1 Subcontractor shall give notice of claim relating to any work for which extra compensation is asserted within ten (10) days after such work is performed or subcontractor shall be deemed to have abandoned any claim thereof.

3.2 If the Subcontractor initiates a substitution, deviation or change in the work, which affects the scope of the work or the expense of other subcontractors, Subcontractor shall be liable for the expense thereof. The Contractor shall decide the manner and/or means in which Subcontractor is to financially remedy Contractor or subcontractor (s) adversely affected by Subcontractor's unauthorized substitution or deviation from the specifications provided within the SPO. Subcontractor shall report any changes in material or procedures specified in any purchase order agreements that may be deemed necessary by field conditions directly to the Contractor before work is to proceed. Any additions to Subcontractor's scope of work shall maintain the same terms as originally set forth within the SPO unless noted otherwise within the change order provided by Contractor. Subcontractor or any of its employees will not contract directly with owner or any other party related to the project for any work without the written authorization to do so from Contractor.

3.3 Subcontractor, in connection with any proposal it makes for a subcontract modification furnish a price breakdown, itemized as required by the Contractor. Unless otherwise directed, the price breakdown shall be in sufficient detail to permit a reasonable analysis of all labor, material, equipment and overhead costs as well as profit and any other item generating costs associated with the modification and shall cover all work involved in the modification whether such work was deleted, added or changed. The proposal shall be furnished by the date specified by the Contractor.

4) Scope of Work/Subcontractor's Work: A full and complete description of the work required by the contract documents for each individual project shall be specified in the SPO. It is understood and agreed that all materials purchased by the subcontractor are made specifically as a purchasing service for the owner, and all liability for the same will be held by the Subcontractor. Subcontractor's materials will be considered owned by Subcontractor until such materials are properly installed on the project in a manner consistent with the contract documents.

4.1 The Subcontractor shall not assign or sublet this subcontract or any part thereof without the written consent of Contractor. Subcontractor shall not knowingly violate any local or state construction codes related to its work. It is assumed Subcontractor is knowledgeable and expert as to its area of expertise as it may appear to be.

4.2 Subcontractor guarantees its work against all defects of materials and/or workmanship for the term called for in contract documents identified in the SPO or if no guarantee is called for, then for a period of one year from the date of total acceptance of the Subcontractor's work by Contractor.

5) Labor Relations: In carrying out its work, Subcontractor shall take necessary precautions to properly protect the finished work and progress work of other trades from damage that may occur during the course of Subcontractor's operations. The Subcontractor shall cooperate with the Contractor and other subcontractors whose work might interfere with the Subcontractor's work, and shall participate in the preparation of coordinated schedules in areas of congestion as required by the scope of work for each subcontractor, specifically noting and advising the Contractor of any such interference. The Subcontractor shall cooperate with the Contractor in scheduling and performing his work to avoid conflict or interference with the work of others.

5.1 Subcontractor shall provide contractor single point of contact authorized to act on Subcontractor's behalf for each project identified in SPO.

5.2 Subcontractor shall employ labor satisfactory to Contractor. Subcontractor shall remove or cause to have removed from the project and employee who are considered unsatisfactory.

5.3 Subcontractor when requested shall provide evidence of compliance with any and all National and State Labor Board Laws, including, but not limited to certified payroll reports to verify Labor Board prevailing wage requirements and regulations when applicable.

6) Time: Time is of the essence of this agreement. It shall be Subcontractor's obligation to conform to Contractor's progress schedule, subject to Contractor's modification, which is incorporated herein by this reference and made a part hereof. Subcontractor shall prepare and obtain approval as required by the Contractor for all shop drawings, details, samples and do all other things necessary and incidental to the prosecution of its work in conformance with the progress schedule. Subcontractor shall coordinate the work covered by this agreement with that of all other contractors, subcontractors and of the Contractor in a manner that will facilitate the efficient completion of the entire work. Contractor shall have complete control of the premises on which the various portions of the work shall be installed or the priority of the work of other subcontractors and in general all matters representing the timely and orderly conduct of the work of Subcontractor on the premises.

7) Execution and Progress of Work: The Subcontractor shall promptly submit shop drawings and samples required in order to perform its work efficiently, expeditiously and in a manner that will not cause delay in the progress of the work of the Contractor or other subcontractors. The Subcontractor shall provide a sufficient, qualified work force when scheduled to do so by the Contractor in order to maintain the work schedule as set forth by the Contractor. Subcontractor shall pay for all materials, equipment and labor used in, or in connection with, the performance of the scope of work as defined within the SPO and shall furnish satisfactory evidence, when required by the Contractor, to verify compliance with the above requirements. The Subcontractor agrees that the Contractor's equipment will be available to the Subcontractor only at the Contractor's discretion and on mutually satisfactory terms. The Subcontractor agrees that all work shall be done subject to the final approval of the Contractor, the Contractor's decisions in matters relating to the

aesthetic quality shall be final if consistent with the intent of the contract documents. Subcontractor shall promptly notify the appropriate authority (ies) when its work is ready for field inspection (s) and immediately comply with City Inspector's correction notice (s), if any, when consistent with the contract documents. Subcontractor shall perform all work to obtain approvals from appropriate City Officials.

7.1 If Subcontractor fails to commence and satisfactorily continue correction of a default within two (2) days after written notification, Contractor may terminate the terms of the SPO. Contractor may furnish those materials, equipment and/or employ such workers or subcontractors as Contractor deems necessary to maintain the orderly progress of Contractor's work. All costs incurred by Contractor in performing the Subcontract work, including overhead and profit, shall be deducted from any monies due or to become due to Subcontractor. Subcontractor shall be liable for payment of any amount by which such expense may exceed the unpaid balance of the subcontract amount specified by the SPO.

8) Clean Up: During the course of construction, subcontractor shall remove its waste materials and debris from the site recurrently as is necessary to maintain the premises in a clean and safe condition. Violation of these clean up procedures or safety standards shall be grounds for disciplinary action and possible termination of any SPO agreement (s). If Subcontractor fails or consistently delays or fails to properly clean up Subcontractor generated debris or waste, Contractor may proceed with that function as he judges necessary and in the manner he may deem expedient, and the cost thereof shall be charged to Subcontractor and deducted from monies due Subcontractor.

9) Disputes: Subcontractor further agrees that he is obliged to perform its specified portion of the work regardless of where in the plans that work is required or indicated. Subcontractor will not refuse, or demand extra compensation for performance of any of its work because that work is described in a drawing not specifically mentioned or referred to in the specification sections listed in the SPO's "scope of work". Subcontractor agrees that in the event that a dispute should arise between Subcontractor and another subcontractor or Contractor, as to who has the responsibility to perform a particular item of work or to repair damage to any particular area or item of work, the final determination shall be made by Contractor. Subcontractor shall abide by that determination and shall perform such item or items of work when they have been determined by the Contractor to be within the terms of Subcontractor's SPO.

10) Insurance: Prior to starting work, Subcontractor shall obtain the required insurance from a responsible insurer, and shall furnish satisfactory evidence to the Contractor that the Subcontractor has complied with the requirements of the State of California, to provide at the Subcontractor's sole cost and expense broad form comprehensive general liability insurance including, but not limited to, complete operations coverage, broad form property damage, contractual liability assumed by the subcontractor in this agreement, and any other coverage deemed necessary by Contractor. In addition, the Subcontractor agrees to maintain product liability, completed operations liability and contractual liability coverage sufficient to cover the liability assumed by Subcontractor in this agreement and each individual project pursuant the SPO (s). Such liability insurance shall provide a minimum \$1,000,000.00 combined single limit for bodily injury and property damage against any loss because of injury or damage to persons or property arising out of the performance of the subcontract.

10.1 The Subcontractor will, at Subcontractor's sole cost and expense provide comprehensive automobile insurance including coverage for owned and non-owned, hired automobiles, used in conjunction herewith, with limits as noted above, Subcontractor shall also provide worker's compensation and employer's liability insurance in a minimum amount of \$1,000,000.00 each accident fully covering and indemnifying the Subcontractor for the protection of its employees, as well as instruct its insurance company (s) to add 'Jacor Construction, Inc.' and Owner as additional insured under Subcontractor's broad form comprehensive general liability and auto insurance.

10.2 Minimum General Liability coverage shall be \$1,000,000.00 per person per accident and \$1,000,000.00 property damage. Contractor and Subcontractor waive all rights against each other and against the owner of the property at which the work is being performed, construction manager, and all other subcontractors for

damages caused by fire or other perils to the extent such rights as they may have on the proceeds of such insurance.

10.3 Any lack of reminder or subsequent demand for such insurance by Contractor shall not be construed to alleviate Subcontractor from these insurance requirements.

10.4 Subcontractor will notify Contractor, in writing, if Subcontractor policy undergoes any changes within (30) days of expiration of policy.

11) Indemnification: All work covered by this Agreement done at the site of construction or preparing or delivering materials to the site shall be at the risk of Subcontractor alone. Subcontractor agrees to save, indemnify and keep harmless Contractor against any and all liability, claims, judgments or demands, including the obligations of Contractor on account of any similar agreement Contractor has with Owner, including demands arising from injuries or death of persons, Subcontractor's employees included, and damage to property, arising directly or indirectly out of the obligations herein undertaken or out of the operations conducted by Subcontractor, save and except claims or litigation arising through the sole negligence or sole willful misconduct of Contractor, and will make good to and reimburse Contractor for any expenditures, including reasonable attorney's fees, Contractor may make by reason of such matters and, if requested by Contractor, will defend any such suits at the sole cost and expense of Subcontractor. Subcontractor assumes the entire responsibility and liability for, and does hereby release, and shall indemnify and save Contractor and Owner harmless from and against all claims, demands, loss, damages, costs, expenses, attorney fees, fines, judgments and liabilities of every kind and nature, by reason of death or injury to any persons, including but not limited to Subcontractors employees, injury or damage to any property, and latent or patent defects of any property, arising directly or indirectly from or by reason of or concerning or resulting from or caused by any act or omission of Subcontractor, or the nature of the work covered by this agreement or the performance or non-performance of all or any part of this agreement, or the failure of Subcontractor to provide a "safe place to work" pursuant the California Labor Code.

12) Payment: The SPO for each individual project shall specify; stipulated sum, payment schedules and method for final payment. When the subcontractor's work or a designated portion thereof is substantially complete and in accordance with the contract documents and in accordance to the terms of the SPO, the Subcontractor shall submit application for payment to Contractor. Faxed applications of payment are not acceptable. Contractor's project number is required to be on any and all Subcontractor application for payment forms. Within fifteen days following issuance of payment by the owner to the Contractor, the Contractor will provide payment to Subcontractor as per terms of the SPO. Final payment, constituting the entire unpaid balance of the contract sum, shall be due when the work described in the SPO is fully completed and performed in accordance with contract documents and is satisfactory to the Contractor, and shall be payable according to the specifications set out in the SPO. If the Contractor does not pay the subcontractor through no fault of the Subcontractor, within ten (10) days from the time payment should be made, the Subcontractor may without prejudice to any other remedy he may have, upon seven additional days written notice to Contractor, stop his work until payment of the amount owing has been received. Subcontractor shall resume its portion of the work if so required by Contractor, within (2) working days and man the project sufficiently through completion, from time of the payment of the owed amount is received.

12.1 Contractor may withhold progress payments or final payments, in whole or part, in order to protect Contractor and/or Owner as their interests appear for any or all of the following: a) Defective work of Subcontractor not remedied, missing materials not furnished, unauthorized substitute materials used by Subcontractor or Subcontractor's clean-up work not performed. b) damage to another subcontractor and/or Contractor. c) unsatisfactory prosecution of the work by Subcontractor in the judgment of Contractor d) reasonable doubt of Contractor the remaining work of Subcontractor can be completed for the unpaid balance of the contract sum to Subcontractor. e) failure of Subcontractor to pay it's subcontractors and/or material vendors. Contractor may require evidence of payment to Subcontractor's subcontractor (s) and/or material vendors if Contractor has reason to doubt payment has been properly made and may require executed unconditional lien releases of Subcontractor's subcontractor (s) and/or material vendors prior to releasing

whole or part of monies due to Subcontractor. f) failure of Subcontractor to provide ‘as-builts’, written guarantees or warranties if required by the contract documents.
 12.2 All Subcontractor applications for payment will be accompanied with all applicable and appropriate lien releases in a form acceptable to Contractor.
 12.3 Any payment made hereunder prior to completion and acceptance of the work shall not be construed as evidence of acceptance of any part of Subcontractor’s work.

13) General Responsibilities: If the Subcontractor persistently or repeatedly fails or neglects to carry out the work in accordance with the contract documents or otherwise to perform in accordance with this agreement and fails within two days after receipt of written notice to commence and continue correction of such default or neglect with diligence and promptness, the Contractor may, without prejudice to any other remedy he may have, terminate the subcontract and finish the work by whatever method he may deem expedient. The costs of such shall be deducted from Subcontractor’s contract sum. If the unpaid balance of the contract sum is greater than the expense of finishing the work, such excess shall be paid to the Subcontractor, but if such expense exceeds such unpaid balance, the Subcontractor shall pay the difference to Contractor.

13.1 All Subcontractor work covered by done at site of construction or preparing or delivering materials to site shall be at the risk of Subcontractor alone.
 13.2 Subcontractor shall at its own cost and expense protect its own employees, employees of the Contractor, and all other persons from risk of injury, death, or bodily harm arising out of or in any way connected with the work to be performed by Subcontractor.
 13.3 Subcontractor shall strictly comply with all safety orders, rules, regulations and requirements of all federal, state and local government agencies exercising safety jurisdiction over said work including, but not limited to, the federal and state OSHA regulations. Subcontractor shall indemnify and save Contractor and Owner including their employees, agents, and representatives harmless from any liability, loss, cost, damage or expense, including attorney’s fees, which Contractor may suffer or incur as a result of any cause of action, proceeding, citation or work stoppage arising out of or in any way connected with the Subcontractor’s failure to execute and promote a ‘safe workplace’.

14) Guarantee: Subcontractor guarantees all material and workmanship and agrees to replace at its sole cost and expense and to the satisfaction of Contractor, any and all materials adjudged defective or improperly installed. Unauthorized substitute materials or used materials not specifically identified within the SPO will be adjudged defective. As well, Subcontractor guarantees the owner and Contractor against liability, loss or damage arising from said installation during a period of one year from completion and acceptance of the work covered by the prime contract. If however the period of guarantee is in excess of one year by the contract documents, Subcontractor shall be bound during the longer period stipulated.

15) Safety, Health and Environmental Minimum Performance Standard: see Attachment I
 _____ **Initial**

 Jacor Construction, Inc. Date
 President
 B-489412

 Subcontractor Date
 Its: _____