

# SUBCONTRACT

#

This number must appear on all invoices.

AGREEMENT Made this    day of    in the year    between (the "Subcontractor") and Harry Grodsky & Co., Inc. (the "Contractor") of 33 Shaws Lane, Springfield, Massachusetts 01104.

**The Subcontractor:**

**The Project:**

Job #:

Area:

Cost Code:

**The General Contractor:**

**The Engineer:**

**ARTICLE 1: THE WORK**

- 1.1 The Subcontractor and the Contractor agree that the materials and equipment to be furnished and the work to be done by the Subcontractor are as follows:
  
- 1.2 The Subcontractor shall furnish at once copies of project specific submittal drawings. Invoices will not be paid final until Contractor receives sets of project specific operating and maintenance literature.
  
- 1.3 The Subcontractor shall furnish all labor and supervision; furnish, supply and install all equipment, supplies, tools, scaffolding, hoisting, transportation, unloading and handling; do all things required to complete the work described above on the project all in accordance with the drawings, specifications and prepared by the Architect/Engineer, and furnish all necessary information, shop drawings, erection drawings, details, samples, brochures, for the Architect's approval, as may be required.

## ARTICLE 2: TIME OF COMMENCEMENT AND COMPLETION

- 2.1 The Subcontractor shall start the work and shall execute the work with diligence and promptness so as to maintain schedules and milestones as established by the Contractor.
- 2.2 In the event that the Subcontractor should fail to maintain the Contractor's progress schedule, the Contractor reserves the right, forty-eight (48) hours after formal notice, either by letter or telegram to the Subcontractor, to procure the materials, equipment and labor necessary to proceed with, or to complete the work, or any portion thereof from other sources and charge the cost thereof to the Subcontractor.
- 2.3 Time is of the essence in this Agreement.
- 2.4 Any liquidated damages assessed against the Contractor by the General Contractor arising out of the performance of the Subcontractor or any person or entity for whose acts the Subcontractor may be liable under this Agreement shall be assessed against the Subcontractor.

## ARTICLE 3: THE CONTRACT SUM AND PAYMENT

- 3.1 The Contractor agrees to pay the Subcontractor for the satisfactory performance of his work the total sum of \$ ( **dollars**), in current funds subject to additions and deductions for changes, as may be agreed upon, and to make payments on account thereof as follows:
- 3.2 On the 20th day of each month, the Subcontractor shall deliver to the Contractor a detailed statement acceptable to the Contractor, and if required, supported by receipts, vouchers, showing values of all materials delivered and Work completed up to the established billing date for which payment is requested. It is specifically understood and agreed that the payment to the Subcontractor is dependent, as a condition precedent, upon the Contractor receiving contract payments. Prior to submission of the first statement, the Subcontractor will deliver to the Contractor, for review and approval, a detailed breakdown of this contract sum showing a schedule of values for the various parts of the Work. Once accepted, this schedule of values will be used as a basis for checking the Subcontractor's monthly statement.
- 3.3 The Subcontractor shall, with the second and each succeeding monthly request for payment, submit receipts and/or affidavit and waiver of lien showing all payments made for labor and materials and on account for all Work covered in the previous months request for payment. Affidavit and waiver of liens may be required to be submitted from Subcontractors, suppliers and/or Sub-Subcontractors. The Subcontractor shall be required to execute a general release prior to receiving final payment.
- 3.4 % ( **percent** ) of each payment shall be retained, unless specific provisions to the contrary are indicated in the contract documents.
- 3.5 No payment made under this Agreement, including the final payment, shall be conclusive evidence of the performance of the work, either wholly or in part, and no payment shall be construed as an acceptance of defective work or improper materials.

## ARTICLE 4: THE CONTRACT DOCUMENTS

- 4.1 The Contract Documents consist of this Agreement and any exhibits attached hereto; the agreement between the General Contractor and the Contractor, the conditions of the agreement between the General Contractor and the Contractor, general conditions, supplementary, special or other conditions, the drawings, specifications, general instructions to bidders, supplements to bidder's documents, form of proposal, all addenda issued prior to and all modifications issued after execution of the agreement between the General Contractor and Contractor and agreed upon by the parties.
- 4.2 The Subcontractor agrees to perform the Work under the general direction of the Contractor and subject to the final approval of the Architect/Engineer or other specified representative of the Owner, in accordance with the Contract Documents.
- 4.3 The Subcontractor agrees to be bound to and assume toward the Contractor all of the obligations and responsibilities

that the Contractor, by those documents, assumes toward the General Contractor. Contract Documents are available, during normal business hours, at the office of the Contractor for examination by the Subcontractor.

- 4.4 If there is a provision for liquidated damages in the contract documents, the Subcontractor shall be liable to the Contractor for any liquidated damages for which the Contractor is held responsible by reason of the failure of this Subcontractor to complete their Work in a timely manner.

#### ARTICLE 5: INSURANCE AND INDEMNITY (See EXHIBIT A)

- 5.1 The Subcontractor agrees to, at the time of execution of this Agreement, furnish the Contractor with certificates of an insurance company (or other source). These certificates should certify that the Subcontractor is protected on the Work with Worker's Compensation and Employer's Liability, Public Liability and Bodily Injury, Property Damage Insurance and any other insurance as required by the Contract Documents and in accordance with the attached schedule, "Insurance Requirements". The Subcontractor will not be permitted to start Work at the site until these certificates are filed with the Contractor. Compliance by the Subcontractor with the foregoing requirements, as to carrying insurance and furnishing certificates, shall not relieve the Subcontractor of its liabilities and obligations.
- 5.2 To the fullest extent permitted by law, the Subcontractor shall defend, indemnify and hold harmless the Owner, the Architect, the General Contractor, and the Contractor and all of their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Subcontractor's Work under this subcontract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, to the extent caused in whole or in part by any negligent act or omission of the Subcontractor or anyone directly or indirectly employed by him or anyone for whose acts he may be liable, regardless of whether it is caused in part by a party indemnified thereunder.

In any and all claims against Owner, the Architect, the General Contractor or the Contractor or any of their agents or employees by any employee of the Subcontractor, anyone directly or indirectly employed by him or anyone for whose acts he may be liable, the indemnification obligation under this Paragraph 5.2 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or the Subcontractor under works' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

#### ARTICLE 6: WARRANTY

- 6.1 The Subcontractor agrees to promptly make good, without cost to the Owner or Contractor, any and all defects, due to faulty workmanship and/or materials of this Subcontractor, which may appear within the guarantee or warranty period so established in the Contract Documents. If no such period be stipulated in the Contract Documents, then such guarantee shall be for a period of one (1) year from date of completion and acceptance of the Work by Owner. The Subcontractor further agrees to provide any and all guarantees as required by the terms of the Contract Documents, as a condition precedent to final payment.
- 6.2 The Subcontractor warrants to the Contractor that materials and equipment furnished under this Subcontract will be of good quality and new unless otherwise required or permitted, that the Work will be free from defects and will conform to all requirements under this Agreement. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Subcontractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Subcontractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the contract documents.

#### ARTICLE 7: CHANGES IN THE WORK

- 7.1 The Subcontractor may be ordered in writing by the Contractor, without invalidating this Agreement, to make changes in the Work within the general scope of this Agreement. These changes may consist of additions, deletions, or other revisions and the contract sum. The Subcontractor, prior to the commencement of such changed or revised Work, shall submit promptly to the Contractor written copies of any claim for adjustment to the contract sum for such revised Work in a manner consistent with the Contract Documents.

- 7.2 Where changes in the Work involve both additions and deletions, percentage fees shall be applied to the net difference of such values for labor and materials.
- 7.3 The amount to be paid by the Contractor for changes in the Work, as outlined in Paragraph 7.1 above, shall be made on the basis of one of the following methods:
- (A) By such applicable unit prices as set forth in the Agreement. Unit prices shall be deemed to include all general and administrative expense, overhead, profit, supervision and all other direct and indirect expense.
- (B) If no such unit prices are set forth, then by a lump sum mutually agreed upon by the Contractor and the Subcontractor, or
- (C) If no such unit prices are set forth and if the parties cannot agree upon a lump sum, then by actual net cost in money to the Subcontractor of materials and labor (including insurance and applicable taxes) required, plus rental of plant equipment (other than small tools and small equipment) plus compensation of 10% overhead and profit. Field overhead will not be considered as part of actual costs. All time and material Work shall be substantiated by daily signed Work tickets. For Work performed by a sub-subcontractor, the Subcontractor will be allowed to add 5% only and said sub-subcontractor markup shall not exceed the aforementioned percentage for overhead and profit.

#### ARTICLE 8: SUBCONTRACTOR RESPONSIBILITIES

- 8.1 The Subcontractor shall provide sufficient, safe and proper facilities at all times for the inspection of the Work by the Contractor or their authorized representatives. The Subcontractor shall, within 24 hours notice from the contractor, proceed to take down all portions of the Work and remove from the grounds or buildings, all materials, whether worked or unworked, which the Contractor, or their authorized representatives shall condemn as unsound or improper, or as in any way failing to conform to the Contract Documents. The Subcontractor shall make good at its own expense, all Work damaged or destroyed thereby.
- 8.2 The Subcontractor agrees, in the performance of this Agreement, to comply with all Federal, State, Municipal and local laws, ordinances, codes and governing regulations, to pay all costs and expenses required thereby; to pay all fees and taxes, including sales and use taxes, and to pay all taxes imposed by the Federal, State, or Local law for employment insurance, pensions, old age benefits, union benefits, or for such comparable purpose. Non-resident Subcontractors and/or suppliers shall obtain a certificate, in duplicate, from the Massachusetts Commissioner of corporations and Taxation/Connecticut Commissioner of Revenue Service, or applicable tax authority, indicating that the requirements of MGLA Chapter 64H, Section 30A, and Chapter 64I, Section 31A Connecticut General Statutes Chapter 219 have been met. The Contractor may retain additional 5% of the total amount of the subcontract until the said certificate is obtained and copy furnished to the Contractor, or the tax imposed by said Chapters have been paid.
- 8.3 The Subcontractor agrees that all equipment, materials, devices or manufactured materials furnished under this Agreement, which are not of the Subcontractors' design, composition, or manufacture, shall be free and clear of infringement of any valid patent, copyright or trademark. The Subcontractor will defend, indemnify and save harmless, the Contractor from any and all expense, liability, and loss of any kind, including attorney's fees, resulting from suits or actions alleging such infringement.
- 8.4 Should the Subcontractor become insolvent or at any time refuse or neglect to supply a sufficiency of properly skilled workers, or equipment and materials of the proper quantity or quality, or fail in any respect to prosecute the Work with promptness and diligence, or fail in the performance of any of the agreements herein contained, the Contractor shall be at liberty, after forty-eight (48) hours written notice to the Subcontractor, to provide any such labor, equipment, and materials and deduct the cost thereof, from any money then due or thereafter to become due to the Subcontractor, under this Agreement.
- 8.5 The Subcontractor and supplier undertakes to comply with all statutory regulations and requirements including but not limited to:

- A - Occupational Safety & Health Act
- B - 29 CFR-1926 OSHA Hazard Communication Standards
- C - State Department of Labor and Industries - Division of Industrial Safety - Industrial Bulletin No. 12, "Rules and regulations for the prevention of accidents in construction operations"
- D - Insurance Safety requirements
- E - Contractors written safety program
- F - Local safety regulations

The Subcontractor also agrees to adequately protect his portion of Work during construction.

- 8.6 In the event the Subcontractor fails to take corrective action to insure compliance with said regulations and/or removal of rubbish and debris resulting from his Work after receiving 24 hours written notice from the Contractor, the Contractor shall undertake these obligations and charge the cost of same to the Subcontractor's account without further notice to the Subcontractor.
- 8.7 The Subcontractor agrees to notify the Contractor of all accidents which may occur on the job site to persons or property and shall provide the Contractor with a copy of all accident reports within five (5) days of occurrence.
- 8.8 The Subcontractor shall procure its materials from such sources and employ such labor subject to the Subcontractor terms and conditions, in order to insure harmonious labor relations on the site and prevent strikes or labor disputes by other trades. In the event of a strike or other labor disputes affecting the labor employed by the Subcontractor, the Contractor has the option to terminate this Agreement and hold the Subcontractor liable for increased costs and damages.
- 8.9 The subcontractor will not assign this Agreement, nor sublet the whole or any part of the Work to be performed hereunder, without the prior written consent of the Contractor. In the event of such a consent, a sub-subcontractor must comply with all the requirements of this Agreement.
- 8.10 The Subcontractor agrees that all disputes concerning the jurisdiction of trades shall be adjusted in accordance with any plan for the settlement of jurisdictional disputes which may be in effect either nationally or in the locality in which the Work is being done. The subcontractor shall be bound by, and shall abide by, all such adjustments and settlements of jurisdictional disputes, whether or not the Subcontractor is signature bound by the agreement establishing the impartial jurisdictional disputes board and/or its successor. The Subcontractor agrees not to cause a Work stoppage, due to the jurisdictional assignment of Work.
- 8.11 The Subcontractor shall submit to the Contractor upon request, copies of orders placed for the various materials required for the project or authentic stock lists if such material is normally a stock item. Order copies need not reflect prices but should indicate type of material, quantity, vendor name and address, etc. The Subcontractor shall be required to submit to the Contractor a monthly materials status report, or more if required by Contractor, as a prerequisite for the monthly progress payment. The Subcontractor shall notify the contractor immediately upon learning of a change of status of any material, equipment, or supplies.
- 8.12 The Subcontractor shall continuously and adequately protect all his Work and will immediately replace all damaged and defective Work.
- 8.13 The Subcontractor agrees to maintain an adequate force of experienced workers and the necessary materials, supplies, and equipment to meet the requirements of the Contractor and other trades in order to maintain construction progress schedules, as established by the Contractor and Owner. In the event that his force is, in the judgement of the Contractor, inadequate to meet the established schedule during the regular working hours, the Subcontractor agrees to Work sufficient overtime hours or increase his Work force to meet such schedules at no extra cost to the Contractor or Owner.
- 8.14 The Subcontractor shall keep the site of the Work free from rubbish, waste and/or materials resulting from his operations. He shall undertake, at his own expense, to frequently clean-up all refuse, rubbish, scrap materials and debris resulting from his operations, to the end that at all times the site of Work shall present a neat, orderly and workmanlike appearance. The Subcontractor is solely responsible for identifying and removing all hazardous

material and waste which he uses and generates. Failure to comply with this requirement, after proper notification by the Contractor, shall constitute authorization for the Contractor to have such Work performed and to backcharge the Subcontractor.

- 8.15 Liens and encumbrances: The Subcontractor for itself, its subcontractors, suppliers, materialmen and employees, waives, releases and relinquishes all right to file any stop Work notice, notice of intent, notice of lien, mechanic's lien or other encumbrance against the Contractor, surety, principal, project, or any monies earned by the Contractor. The filing or effectuating of such encumbrance shall constitute a material breach. The Subcontractor shall be responsible and liable for all damages and expenses, including bond premiums, attorney's fees, etc. to discharge and/or defend against same. The existence of any encumbrance shall preclude the Subcontractor's right to receive payment until such encumbrance has been satisfied and removed and upon request of the Contractor shall provide lien waivers or other such releases or discharges satisfactory to Contractor's counsel. Should any of the foregoing provisions of this Subparagraph 8.15 be void or unenforceable in whole or in part; notwithstanding, the Subcontractor for itself, its subcontractors, suppliers, materialmen and employees agrees to cause all mechanics liens or other encumbrances to which Subcontractor or they may have to be subordinated to the lien of any and all mortgages or security interests granted by the Owner to Owner's Lender or Lenders, and upon request of the Contractor shall provide written evidence of such subordination satisfactory to Contractors counsel.
- 8.16 In the event that the Subcontractor or any of its agents, employees, suppliers, or subcontractors utilize any machinery, equipment, tools, scaffolding, hoists, lifts or similar items belonging to or under the control of the Contractor, the Subcontractor shall be liable to the Contractor for any loss or damage, including personal injury or death, which may arise from such use, except where such loss or damage results solely from the negligence of the Contractor's employees operating Contractor-owned or leased equipment.
- 8.17 The Subcontractor hereby agrees to defend, indemnify and hold harmless the Owner and the Contractor from any and all losses, liabilities, claims and expenses (including without limitation reasonable attorneys fees) arising in any manner out of the performance by the Subcontractor of any of the Work covered by this Agreement.

#### ARTICLE 9: CONTRACTOR RIGHTS & RESPONSIBILITIES

- 9.1 The Contractor shall be bound to the Subcontractor by the terms of this Agreement. To the extent that the provisions of the Contract Documents between the General Contractor and the Contractor apply to the Work of the Subcontractor as defined in this Agreement, the Contractor shall assume toward the Subcontractor all the obligations and responsibilities that the General Contractor by those documents, assumes toward the Contractor.
- 9.2 The Contractor shall not give instructions or orders directly to employees or workers of the Subcontractor, except to persons designated as authorized representatives or the Subcontractor.
- 9.3 Performance Bond and Labor and Material Payment Bond - The Contractor shall have the right to require any Subcontractor to furnish bonds covering the faithful performance of the Subcontract and the payment of all obligations arising thereunder. The expense of such bonds shall be borne by Contractor. The failure of the Subcontractor to furnish a bond within ten (10) days after having been given notice of such requirement by Contractor shall constitute sufficient cause for termination of his Subcontract.

#### ARTICLE 10: EQUAL OPPORTUNITY

- 10.1 During the performance of this Agreement, the Subcontractor agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, handicap, disability, or Vietnam Era or disabled Veteran's status. The Subcontractor will take affirmative action to insure that applicants are employed without regard to their race, color, religion, sex, national origin, handicap, disability, or Vietnam Era or disabled Veteran's status. The Subcontractor will comply will all provisions of executive order #11246 of September 24, 1965, including all amendments, updates and modifications to this executive order, and relevant orders of the Secretary of Labor.

#### ARTICLE 11: GOVERNING LAW

- 11.1 The validity, interpretation and performance of this contract shall be governed by the laws of the State where the designated principal place of business of the Contractor is located. The Subcontractor hereby accepts said State's jurisdiction and agrees to accept service of process as if it were personally served within said jurisdiction. Titles, captions or headings to any provision, article, etc., shall not limit the full contents of same. These articles have the full force and effect as if no titles existed. If any term or provision of the contract is found invalid, it shall not affect the validity and enforcement of all remaining terms and provisions of the contract.

#### ARTICLE 12: LEGAL FORUM

- 12.1 Any dispute or claim arising out of this contract, or from a breach of this contract, and which is not resolved by the terms and provisions of this contract, shall be submitted to the judicial court within the county and state of the Contractor's designated principal place of business for decision. The Subcontractor agrees to participate in, join in, and be bound by any proceeding, be it judicial, administrative, mediation, arbitration or other, which directly or indirectly relates to this contract or project and for which the Contractor demands, by written notice, that the Subcontractor participate, also within such county and state. Any claim or action by the Subcontractor must be commenced within two years of the date the cause of action accrued, but in no event later than one year after substantial performance of this contract, and in no event after final payment to the Subcontractor. If any claim or dispute arises relating to this contract, the Subcontractor shall immediately make all of its books and records available to the Contractor for review and audit.
- 12.2 Prior to the initiation of any legal proceedings, the parties to this Agreement agree to submit all claims, disputes or controversies arising out of or in relation to the interpretation, application or enforcement of this Agreement to non-binding mediation. Such mediation shall be conducted under the auspices of the American Arbitration Association or such other mediation service or mediator upon which the parties agree. The party seeking to initiate mediation shall do so by submitting a formal, written request to the other party to this Agreement. This section shall survive completion or termination of this Agreement, but under no circumstances shall either party call for mediation of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceedings to litigate such claim or dispute under the laws of the Commonwealth of Massachusetts.
- 12.3 The Subcontractor hereby agrees to join the Contractor in any dispute the Contractor may have with the General Contractor arising out of the performance or Work provided by the Subcontractor.

#### ARTICLE 13: RIGHT TO KNOW

- 13.1 "Right to Know--each subcontractor is required to implement the provisions of Chapter 470 of the Acts of 1983 of the general laws of Massachusetts, the so-called "Right to Know" law, upon its effective date. When furnishing any material listed on the Massachusetts substance list, the Subcontractor will furnish the required material safety data sheet, together with appropriate labels and employee training or instructional material for substance". When the Work to be performed is outside of Massachusetts, applicable corresponding state law and federal law regarding hazardous substances communications will govern.

#### ARTICLE 14: TERMINATION, SUSPENSION, AND ASSIGNMENT

- 14.1 The Subcontractor may terminate the Subcontract for the same reasons and under the same circumstances and procedures with respect to the Contractor as the Contractor may terminate with respect to the General Contractor under the Contract Documents. In the event of such termination by the Subcontractor for any reason which is not the fault of the Subcontractor, Sub-subcontractors or their agents or employees or other persons performing portions of the Work under contract with the Subcontractor, the Subcontractor shall be entitled to recover from the Contractor payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.
- 14.2 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 Subcontract and fails within seven (7) days after receipt of written notice to commence and continue correction of such default or neglect with diligence and promptness, or if the Subcontractor becomes insolvent, the Contractor may, after seven (7) days following receipt by the Subcontractor of an additional written notice and without prejudice to any other remedy the Contractor may have,

terminate the Subcontract and finish the Subcontractor's Work by whatever method the Contractor may deem expedient. Consequently, the Contractor may enter upon the premises to take possession, for the purpose of completing the Work, of all materials, tools and equipment thereon, and to employ any other person or persons to finish the Work and provide the labor, materials and equipment therefor. In case of such termination, the Subcontractor shall not be entitled to receive any further payment under this Agreement until the Work shall be wholly finished. If the unpaid balance of the Subcontract Sum exceeds the expense of finishing the Subcontractor's Work and other damages incurred by the Contractor and not expressly waived, such excess shall be paid to the Subcontractor. If such expense and damages exceed such unpaid balance, the Subcontractor shall pay the difference to the Contractor.

- 14.3 If the General Contractor terminates the Contract for convenience, the Contractor shall deliver written notice to the Subcontractor.
- 14.4 Upon receipt of written notice of termination, the Subcontractor shall:
- .1 cease operations as directed by the Contractor in the notice;
  - .2 take actions necessary, or that the Contractor may direct, for the protection and preservation of the Work; and
  - .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Sub-subcontracts and purchase orders and enter into no further Sub-subcontracts and purchase orders.
- 14.5 In case of such termination for the General Contractor's convenience, the Subcontractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.
- 14.6 The Contractor may, without cause, order the Subcontractor in writing to suspend, delay or interrupt the Work of this Subcontract in whole or in part for such period of time as the Contractor may determine. In the event of suspension ordered by the Contractor, the Subcontractor shall be entitled to an equitable adjustment of the Subcontract Time and Subcontract Sum.
- 14.7 An adjustment shall be made for increases in the Subcontract Time and Subcontract Sum, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:
- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Subcontractor is responsible;
  - .2 that an equitable adjustment is made or denied under another provision of this Subcontract.
- 14.8 In the event of termination of the Contract by the General Contractor, the Contractor may assign this Subcontract to the General Contractor, subject to the provisions of the Contract Documents and to the prior rights of the surety, if any, obligated under bonds relating to the Contract Documents. In such event, the General Contractor shall assume the Contractor's rights and obligations under this Agreement. If the Work of the Contract Documents has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted.
- 14.9 The Subcontractor shall not assign the Work of this Subcontract without the written consent of the Contractor, nor subcontract the whole of this Subcontract without the written consent of the Contractor, nor further subcontract portions of this Subcontract without written notification to the Contractor when such notification is requested by the Contractor.

#### ARTICLE 15: COMPLETE AGREEMENT

- 15.1 This Agreement, together with all documents, specifications, drawings, incorporated herein by reference, constitute the entire Agreement between the Contractor and the Subcontractor. There are no terms, conditions, or provisions, either oral or written, between the parties hereto, other than those contained herein. This Agreement supersedes any and all written representations, inducements, or understandings of any kind or nature between the parties hereto, relating to the particular project involved herein.

- 15.2 The said parties for themselves, their heirs, successors, executors, administrators and assigns, do hereby agree to the full performance of the covenants herein contained. In witness whereof they have hereunder set their hands the day and date first above written.
- 15.3 Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.
- 15.4 If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith, in order to maintain the economic position enjoyed by each party as closely as possible to that under the provision rendered unenforceable. In the event that the parties cannot reach mutually agreeable and enforceable replacement for such provision, then (a) such provision will be excluded from this Agreement, (b) the balance of this Agreement will be interpreted as if such provision were so excluded, and (c) the balance of the Agreement will be enforceable in accordance with its terms.

In the presence of

SUBCONTRACTOR

\_\_\_\_\_  
Witness

BY \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print/Type Name)

DATE \_\_\_\_\_

HARRY GRODSKY & CO., INC.

\_\_\_\_\_  
Witness

BY \_\_\_\_\_  
Ronald Wyzik

DATE \_\_\_\_\_

### **Exhibit A - Insurance Requirements**

The Subcontractor, at its own expense, shall purchase and maintain in full force and effect, such insurance on an occurrence form (unless otherwise noted below) with a company or companies lawfully authorized to do business in the jurisdiction in which the project/work is located and have a general policy holder rating of "A-" or better as rated by AM Best, insurance policies as outlined below. Such policies shall protect the Contractor from claims, which may arise out of or result from the Subcontractor's (or anyone directly or indirectly employed by the Subcontractor) operation's performed under the Contract. The Subcontractor shall be required to provide Certificates of Insurance, and upon demand, any policy or endorsement, evidencing the following coverage:

#### **Commercial General Liability (CGL):**

**Limits:** \$1,000,000 each occurrence  
 \$2,000,000 general aggregate limit  
 \$2,000,000 products/completed operations aggregate limit  
 \$1,000,000 personal injury/advertising injury limit

#### **Coverage:**

*Insurance coverage should be in force and maintained on a coverage form no less restrictive than the latest edition of the Commercial General Liability policy filed by the Insurance Service Office (1988 form or more recent.)*

#### **Requirements:**

1. Products/Completed Operations Liability shall be maintained in full force and effect for a period of three (3) years following the final completion of the work.
2. Harry Grodsky & Co., Inc. to be listed as an additional insured including coverage for products/completed operations (or blanket additional insured as required by written contract.) Use of endorsement CG2010 11/85 or equivalent.
3. Insurance of subcontractors to be primary and non-contributory
4. Waiver of Subrogation with respect to General Liability
5. Per project general aggregate
6. XCU coverage must be provided

#### **Worker's Compensation and Employer's Liability Coverage:**

**Limits:** Coverage A (Workers Compensation) - statutory  
 Coverage B (Employer's Liability) - \$500,000 per accident or disease (or sufficient to meet Umbrella requirements.)

#### **Coverage:**

If applicable, statutory coverage for United States Longshoreman and Harbor Workers, and the Jones Act

#### **Requirements:**

Waiver of subrogation with respect to Worker's Compensation

#### **Comprehensive Automobile Liability:**

**Limits:** \$1,000,000 Combined Single Limit (CSL) for Bodily Injury and Property Damage.

**Coverage:** Coverage to include owned, non-owned and hired vehicles, including the loading and unloading thereof.

#### **Requirements:**

Waiver of subrogation with respect to Auto Liability

*In the event the subcontractor does not own any automobiles in the corporate name, non-owned vehicle coverage shall apply and must be endorsed onto the subcontractor's personal auto policy or the CGL coverage.*

#### **Excess Liability Umbrella Coverage**

The umbrella policies shall contain a minimum \$5,000,000 per occurrence and \$5,000,000 aggregate limit with coverage at least as broad as primary underlying insurance, covering all work performed by the subcontractor under this contract.

#### **Watercraft Hull and Protection Indemnity Liability** (if applicable)

Including coverage for owned, non-owned and hired crafts; including the loading or unloading thereof. Minimum policy limits of:

1. Value of the hull
2. \$1,000,000 protection & indemnity (including coverage for Bodily Injury and Property Damage.)

#### **Aircraft Hull and Liability** (if applicable)

Including coverage for owned, non-owned, and hired crafts; including the loading or unloading thereof. Minimum policy limits of:

1. Combined Single limit (bodily injury/property damage) of \$1,000,000 to include passenger liability without seat limitations.

#### **Professional Liability** (if applicable)

**Limits:** \$2,000,000 per occurrence / \$2,000,000 annual aggregate

**Coverage:** Coverage to protect the subcontractor against any negligent act, error, or omission arising out of design in engineering activities with respect to the project. Claims Made Form.

#### **Contractors Pollution Liability** (if applicable)

**Limits:** \$1,000,000 per occurrence / \$2,000,000 annual aggregate

**Coverage:** Coverage to protect the subcontractor from environmental losses resulting from work performed.

#### **Riggers Liability** (if applicable)

**Limits:** At least the replacement cost of the item in their care, custody, and control

**Coverage:** A Riggers Liability Policy provides special perils (all risk) coverage for property of others that the insured (a contractor) has agreed to lift or move. Coverage applies only to property of others in the insured's care, custody or control. The property must be in the insured's possession for the purpose of a rigging (lifting) job or project. Coverage also applies to work done in connection with the lifting of property. \_\_