



THIS AGREEMENT made as of \_\_\_\_\_ ("Effective Date") by and between \_\_\_\_\_ ("Contractor") and \_\_\_\_\_

Supplier:  
Address: \_\_\_\_\_ License Number(s):  
City, State, Zip: \_\_\_\_\_ Federal ID Number:  
Phone: \_\_\_\_\_ Organization Type:  
Fax: \_\_\_\_\_

for the \_\_\_\_\_ ("Project") being constructed for  
("Owner"). Contractor and Supplier agree as follows.

**1. The Products**

**1.1 The Work**

Contractor has entered into a contract with Owner (the "Prime Contract") for the furnishing of labor, materials, equipment, and services in connection with the construction of the Project (the "Work" as defined in the Prime Contract). References to Contractor in the Prime Contract as the "General Contractor", "Design-Builder", "Construction Manager/General Contractor", or similar titles shall be deemed to be references to Contractor for purposes of this Agreement. All capitalized terms not otherwise defined in this Agreement have the meanings given in the Prime Contract.

**1.2 The Products**

Supplier agrees to furnish the products described below (the "Products") in exact accord with the Purchase Order (as defined in Section 1.3):

**Specifically includes, but is not limited to:**

**Specifically excludes:**

Schedule of Values	Phase	CT	Unit	Unit Cost	Qty	Cost
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The Products are subject to the approval and satisfaction of Owner, Contractor, and Architect. Supplier acknowledges and agrees that Contractor is not a guarantor of number of units.

**1.3 Purchase Order**

The Purchase Order consists of (i) this Agreement; (ii) the Prime Contract and its Contract Documents; (iii) modifications to the Prime Contract issued after its effective date, whether before or after the Effective Date of this Agreement; (iv) other documents listed in Section 1.4 of this Agreement; and (v) Amendments issued after the Effective Date of this Agreement. These form the Purchase Order, and are as fully a part of the Purchase Order as if attached to or repeated in this Agreement. The Purchase Order may be amended or modified only as provided in Section 6 of this Agreement. Supplier acknowledges that a copy of the Prime Contract and its Contract Documents have been made available to Supplier for its review. Supplier binds itself to Contractor by the terms and conditions of the Prime Contract and its Contract Documents in the same manner and to the same extent that Contractor is bound to Owner.

**1.4 Exhibits**

The following documents are incorporated into the Purchase Order. Notwithstanding the foregoing, any exhibits listed in this Section 1.4 that were provided by Supplier, including without limitation proposals, quotes, and scope clarifications, are incorporated into the Purchase Order only to the extent related to furnishing the Products. Any non-scope provisions, including without limitation terms and conditions, are not incorporated and are not part of the Purchase Order.

Exhibit A - Insurance Requirements



### 1.5 Supplier's Representations

Supplier represents that it has carefully reviewed the Purchase Order and all other information reasonably available to Supplier that is relevant to furnishing the Products.

### 1.6 Submittals and Design Services

#### 1.6.1 Submittals

Supplier must comply with the submittal schedule provided by Contractor, if any. Supplier will otherwise promptly submit all shop drawings, including revisions, and other necessary Project documents to Contractor. Contractor's review of shop drawings, revisions, and other documents from Supplier does not relieve Supplier from any of its obligations under the Purchase Order or give rise to any cause of action in favor of Supplier or third parties against Contractor or Owner.

#### 1.6.2 Design Services

To the extent that furnishing the Products includes providing professional design services, Supplier will provide the design and design services necessary to satisfactorily furnish the Products in accordance with all applicable statutes, ordinances, regulatory requirements, codes, terms and provisions of the Purchase Order, and information, design, or performance criteria otherwise expressed in or reasonably inferable from the Purchase Order. Design services and designs provided by or on behalf of Supplier will be procured from design professionals licensed or registered as required by the laws of the state where the Project is located, and the signature and seal of each design professional must appear on all applicable drawings, calculations, specifications, certifications, shop drawings, and other submittals. Contractor is entitled to rely on the accuracy, adequacy, and completeness of all designs, design documents, and submittals from Supplier, its Associated Parties (as defined in Section 2.3.1), or any of their respective design professionals. Supplier will carefully analyze the Purchase Order and will coordinate its designs and submittals, including those prepared by its Associated Parties, with those of all others whose work or design may interface with Supplier's design to avoid inconsistencies and conflicts with the work or design of others and to ensure adherence to and fulfillment of the requirements of the Purchase Order.

#### 1.6.3 License

Supplier grants to Contractor copyright, ownership, license and other rights relating to the Supplier's designs, drawings, specifications, reports or other work product (the "Instruments of Service") in the same manner and to the same extent as the Contractor has granted such rights to the Owner in the Prime Contract. To the extent that the Prime Contract does not require such grants, Supplier grants to the Contractor a limited, non-exclusive, irrevocable license to use the Instruments of Service for purposes of constructing, using, maintaining, altering and adding to the Project.

### 1.7 Building Information Modeling and Digital Data

#### 1.7.1 Provision

Supplier may ask Contractor to provide certain plans, specifications, models, or other documents in electronic form ("Digital Data"). Supplier recognizes that the creation, ownership, transmission, modification, and use of Digital Data may be governed by protocols established in the Prime Contract ("Digital Data Protocols") and assumes any and all obligations to Contractor that Contractor may have assumed to third parties concerning the creation, ownership, transmission, modification, and use of Digital Data. If not subject to Digital Data Protocols, Supplier understands that Digital Data is not intended to be used for construction and is not a Contract Document or part of the Purchase Order.

#### 1.7.2 Restrictions on Use

Supplier agrees not to use Digital Data for any purpose or project other than for furnishing the Products. Under no circumstance is the transfer of Digital Data for Supplier's use to be deemed a sale by Contractor, and Contractor makes no warranties - expressed or implied - of merchantability or fitness for any particular purpose of any Digital Data. Supplier agrees, as a condition of forwarding Digital Data to any nonparty, to require that nonparty to agree in writing to the obligations, terms, and conditions of this Section 1.7.

#### 1.7.3 Release and Indemnity

Any use of Digital Data that does not comply with, or is not subject to, the Digital Data Protocols is at the sole risk of Supplier and will not result in liability to Contractor. To the fullest extent allowed by law, Supplier agrees to defend, reimburse, and indemnify the Indemnified Parties and hold them harmless for, from, and against any and all claims, liens, actions, suits, orders, demands, losses, expenses, damages, fines, penalties, costs, injuries and liabilities of any kind (including without limitation reasonable expert-witness and attorney fees) to the extent arising out of or relating to (i) the failure of the Supplier, its Associated Parties, or those for whom they are responsible to comply with Digital Data Protocols or (ii) the creation, ownership, transmission, modification, and use of Digital Data by Supplier, its Associated Parties, or those for whom they are responsible that is not subject to the Digital Data Protocols.



## 2. Supplier

### 2.1 Independent Contractor

Supplier represents that it is and will continue to be an independent contractor and employing unit subject to all applicable tax, social security, wage-and-hour, and unemployment compensation statutes, rules, and regulations. Supplier will keep records, submit reports and filings, and pay all taxes and contributions required as an independent employer.

### 2.2 Compliance with Laws

Supplier will comply with and give all notices required by laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities ("Laws") applicable to its business and the Products.

### 2.3 Responsibility for Associated Parties

#### 2.3.1 Written Agreement Requirements

Supplier must enter into appropriate written contracts for Products, or portions thereof, furnished by sub-subcontractors, suppliers, design professionals, or consultants (collectively, "Associated Parties"). The written contracts will require that each Associated Party assume toward Supplier all obligations that Supplier assumes toward Contractor. The written contracts will also require that each Associated Party be bound to Supplier by the terms and conditions of the Purchase Order, including without limitation the terms and conditions of the Prime Contract, in the same manner that Supplier is bound to Contractor.

#### 2.3.2 Supervision

Supplier will use its best skill and attention to supervise, coordinate, direct, and inspect any Products, or portions thereof, furnished by an Associated Party. As between Supplier and any Associated Party, Supplier will be responsible for coordinating all Products, or portions thereof, furnished under the Purchase Order.

#### 2.3.3 Documentation Available

Upon request of Contractor, Supplier will promptly submit (i) true and complete copies of any sub-subcontracts, supply agreements, and consulting agreements with Associated Parties, (ii) evidence of any Associated Party's insurance coverage and limits in a form as may be designated by Contractor, and (iii) waivers and releases of liens and bond claims executed by Associated Parties.

#### 2.3.4 Responsibility

Supplier is responsible to Contractor for all acts and omissions of its Associated Parties, and those for whom they are responsible, relating to or in connection with the Products and the Purchase Order.

## 2.4 Nondiscrimination

Supplier may not discriminate against any employee or applicant for employment because of race, creed, color, age, sexual orientation, marital status, sex, or national origin. Supplier will also abide by the requirements of 41 CFR § 60-741.5(a), which prohibits discrimination against qualified individuals on the basis of disability, and 41 CFR § 60-300.5(a), which prohibits discrimination against qualified protected veterans on the basis of disability. Supplier will take affirmative action to employ and advance in employment qualified individuals with disabilities and qualified protected veterans. Supplier will also take all actions required by law to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, age, sexual orientation, marital status, sex, or national origin, including without limitation employment, upgrading, demotion, transfer, recruitment advertisement, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

## 2.5 Insurance

Supplier must provide the types of insurance coverage and policy limits required of Contractor in the Prime Contract and its Contract Documents. In all events, however, Supplier's insurance must comply with the requirements set out in Exhibit A.

## 3. Delivery

### 3.1 Delivery

Supplier shall deliver the Products to the Project site (i) at a time and place directed by Contractor, (ii) complete and in proper sequence and (iii) with proper identification.



### 3.2 Delivery not Final Acceptance

Products will not be considered accepted until all spare parts and approved copies of the instruction, operation and maintenance manuals are furnished. Manuals shall include drawings of all equipment.

## 4. Compensation and Payment

### 4.1 Purchase Order Sum

Contractor will pay Supplier in current funds for furnishing the Products the "Purchase Order Sum" of \_\_\_\_\_, subject to additions and deductions as provided in the Purchase Order. If all or a portion of the Products are on a unit-price basis, the agreed-upon rates must be incorporated in the Purchase Order as an exhibit.

### 4.2 Payments

Subject to the conditions of payments in Section 4.3, Contractor will pay Supplier within 30 days of receiving Supplier's invoice.

### 4.3 Conditions of Payments

#### 4.3.1 Conditions Precedent

Contractor's collection of Owner's payment for certain Products is a condition precedent to Contractor's obligation to pay Supplier for those Products. Contractor therefore has no obligation to pay Supplier any payment unless (and only to the extent that) Contractor has collected payment from Owner.

#### 4.3.2 Payment of Associated Parties

Payments will not be due if and to the extent that Supplier has not fully paid its Associated Parties for all amounts due to them, including without limitation from all of Contractor's prior payments to Supplier for the Associated Parties' work.

#### 4.3.3 Documents Required for Payment

If requested by Contractor, Supplier must submit (i) waivers and releases of liens and bond claims executed by Supplier, and (ii) other forms and data to the extent and in a form that may be designated by Contractor in the Purchase Order.

### 4.4 Supplier's Payment Obligations and Indemnity

#### 4.4.1 Duty to Pay

Supplier will furnish the Products free from all claims, encumbrances, and liens. Supplier will hold payments it receives from Contractor for furnishing the Products in trust to pay promptly for labor, material, and other equipment used to furnish the Products. No payments will be diverted to apply to any of Supplier's obligations for other projects or for other purposes. Supplier will promptly pay its Associated Parties in accordance with applicable Laws.

#### 4.4.2 Indemnity

To the extent that Contractor has made payments in accordance with the terms of the Purchase Order, and to the fullest extent allowed by law, Supplier agrees to defend, reimburse, and indemnify the Indemnified Parties and hold them harmless for, from, and against any and all claims, liens, actions, suits, orders, demands, losses, expenses, damages, fines, penalties, costs, injuries and liabilities of any kind (including without limitation reasonable expert-witness and attorney fees) that Contractor incurs if Supplier fails to perform its obligations under this Section 4.4.

## 5. Schedule

Supplier will furnish the Products as required by the Contractor's schedule. Contractor shall not be liable for any delays caused by Owner except to the extent Contractor is compensated by Owner for such delays.

## 6. Changes to the Products

### 6.1 General

Supplier may be ordered in writing by Contractor, without invalidating the Purchase Order, to change the quantity of Products. Supplier agrees to change the quantity as ordered by Contractor.

## 7. Warranty

Supplier will provide Contractor with warranties and guaranties, whether express or implied, to the same extent and for the same periods that Contractor is obligated to provide them to Owner. To the extent that the Prime Contract does not require express warranties or guaranties, Supplier warrants that the Products will conform to the requirements of the Purchase Order and will be free of defects and nonconformities in materials and workmanship.



**8. Indemnity**

**8.1 All Projects**

Supplier will defend, reimburse, and indemnify Contractor, Owner, any other person or entity that Contractor is required to indemnify under the Prime Contract, and their respective subsidiaries, related entities, shareholders, representatives, officers, directors, agents, and employees (collectively, the "Indemnified Parties") and hold them harmless to the same extent that Contractor is obligated to defend, reimburse, and indemnify Owner and hold it harmless in the Prime Contract. In addition, to the fullest extent allowed by law, Supplier agrees to defend, reimburse, and indemnify the Indemnified Parties and hold them harmless for, from, and against any and all claims, liens, actions, suits, orders, demands, losses, expenses, damages, fines, penalties, costs, injuries and liabilities of any kind (including without limitation reasonable expert-witness and attorney fees) arising out of or relating to the Purchase Order or the Products to the extent caused by or contributed to by Supplier, its Associated Parties (including those for whom they are responsible) for their (i) breach of or failure to perform any provision of the Purchase Order, (ii) violation of any Laws, or (iii) negligence or fault. Supplier's obligations under this section apply without limitation to bodily injury to persons, damage to property (including without limitation the Project), economic losses, and consequential damages.

**8.2 Washington Projects**

The following provisions apply to Supplier's obligations if the Project site is in the state of Washington.

**8.2.1 Supplier's Obligations**

Supplier's indemnity obligations under the Purchase Order apply to damages for bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (i) Contractor or its officers, directors, agents, or employees and (ii) Supplier or its officers, directors, agents, or employees to the extent of, but only to the extent of, the negligence of Supplier, its Associated Parties, or those for whom they are responsible, together with their respective officers, directors, agents, and employees. Supplier's indemnity and insurance obligations under the Purchase Order do not apply to damages for bodily injury to persons or damage to property to the extent caused by or resulting from the sole negligence of Contractor or its officers, directors, agents, or employees.

**8.2.2 Waiver of Industrial Insurance Immunity**

For the purposes of Supplier's indemnification obligations under the Purchase Order, Supplier specifically waives any immunity that it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW. The indemnification obligations under the Purchase Order are not limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disabilities benefit acts, or other employee benefit acts. Supplier hereby acknowledges, represents, and warrants that the waiver set out in this Section 8.2.2 has been mutually negotiated by the parties to the Agreement.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Supplier

**8.3 Oregon Projects**

The following provisions apply to Supplier's obligations if the Project site is in the state of Oregon.

**8.3.1 Supplier's Obligations**

Notwithstanding anything to the contrary in the Purchase Order, Supplier is not required to indemnify or insure the Indemnified Parties for, from, and against liability for damage arising out of death or bodily injury to persons or damage to property to the extent caused by the negligence or willful misconduct of the Indemnified Parties.

**8.3.2 No Limitations**

In a claim against any or all Indemnified Parties by an employee of the Supplier, an Associated Party, anyone directly or indirectly employed by either of them, or anyone for whose acts they respectively may be liable, the indemnification obligations under the Purchase Order are not limited by workers' compensation law, disability or employee benefit acts, or other restrictions on the amount or type of damages recoverable.

**9. Suspension and Termination****9.1 Suspension or Termination of the Prime Contract by Owner****9.1.1 Suspension**

If Owner suspends the Prime Contract, or any part of the Prime Contract that includes all or part of the Products, Contractor will notify Supplier in writing and, immediately upon delivery of the notice, Supplier will proceed as directed in Contractor's notice. In the event of suspension, Contractor's liability to Supplier is limited to the extent of Contractor's recovery on Supplier's behalf under the Prime Contract. Contractor's receipt of recovery compensation from Owner is an express condition precedent of Contractor's obligation to pay Supplier.

**9.1.2 Termination**

If Owner terminates the Prime Contract, or any part of the Prime Contract that includes all or part of the Products, Contractor will notify Supplier in writing, and upon Supplier's receipt of the notice, the Purchase Order will also be terminated in whole or in part as stated in Contractor's notice, and Supplier will proceed as directed in Contractor's notice. In the event of termination, Contractor's liability to Supplier is limited to the extent of Contractor's recovery on Supplier's behalf under the Prime Contract. Contractor's receipt of recovery compensation from Owner is an express condition precedent of Contractor's obligation to pay Supplier. If Owner terminates the Prime Contract for cause, the Purchase Order may be assigned to Owner under the terms of the Prime Contract, and Supplier consents to this assignment.

**9.2 Termination by Contractor****9.2.1 Termination for Convenience**

Contractor, at any time and at its sole convenience and discretion, may terminate the Purchase Order upon 72 hours' written notice to Supplier. Upon termination for convenience, Supplier must immediately cease furnishing the Products and will thereafter be entitled to payment of an equitable amount for that portion of the Products furnished up to the time of termination.

**9.2.2 Termination for Cause**

If Supplier fails or refuses to furnish the Products in accordance with the Purchase Order; fails to perform its obligations under the Purchase Order; or is dissolved, Contractor may, in its sole discretion and after 72 hours' written notice to Supplier, terminate the Purchase Order without prejudice to any other remedy that Contractor may have. If Contractor's termination of Supplier under this Section 9.2.2 is determined to be in error, in breach, or wrongful, the termination will be deemed a termination for convenience under Section 9.2.1.

**10. Dispute Resolution****10.1 Dispute**

A Dispute is (i) a contested claim, demand, or assertion by one party seeking, as a matter of right, payment of money, extension of time, or other relief under the Purchase Order or (ii) a contested matter between the parties arising out of or relating to performance of the Purchase Order.

**10.2 Disputes That Involve Owner**

For any Disputes related to the Purchase Order or the Products that involve Owner, Supplier agrees to be bound exclusively to the dispute-resolution procedures provided in the Prime Contract. Supplier agrees, at Contractor's request, to consolidate arbitration of its Disputes with Contractor with Contractor's Disputes with Owner and third parties. With respect to Disputes involving Supplier's claims for damages caused by Owner, Supplier (i) is entitled to recover from Contractor only what Contractor collects from Owner for those Disputes, and payment from Owner is an express condition precedent of Contractor's obligation to pay Supplier, and (ii) will be responsible for a proportionate share of all reasonable costs incurred by the Contractor in pursuing such claims. Supplier will cooperate with Contractor regarding Contractor's submission of Disputes to, or prosecution of Disputes against, Owner.

**10.3 Disputes That Do Not Involve Owner**

All Disputes that do not involve the Owner will be exclusively subject to binding arbitration, which (unless the parties mutually agree otherwise) will be administered by and in accordance with the rules of the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the Effective Date of the Purchase Order. A demand for arbitration must be made in writing, delivered to the other party to the Purchase Order, and filed with the American Arbitration Association unless the parties elect another person or entity to administer arbitration proceedings. The demand for arbitration must be made within a reasonable time after the Dispute has arisen, but in no event will it be made after the date when the institution of legal or equitable proceedings based on the Dispute would be barred by the applicable statute of limitations or repose. For purposes of the statute of limitations or repose, delivery of a written demand for arbitration by the party commencing the arbitration proceeding will constitute the institution of legal or equitable proceedings based on the Dispute. The award of the arbitrator(s) will be final, binding, and enforceable in accordance with applicable Laws.

[WALSHCONSTRUCTION.COM](http://WALSHCONSTRUCTION.COM)

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#### 10.4 Attorney Fees

Subject to any provision for recovery of fees in the Prime Contract for claims involving Owner, in the event of a Dispute between Supplier and Contractor arising out of or related to the Purchase Order, Supplier's breach, or the Products, the prevailing party in any arbitration or litigation proceeding will be entitled to recovery from the other party of its reasonable attorney and expert-witness fees and related costs, disbursements, and expenses incurred before and during any arbitration, trial, review for appeal, appeal, request for reconsideration, and reconsideration.

#### 11. General Terms

##### 11.1 Assignment

Supplier may enter into a direct contract with an Associated Party to furnish a portion of the Products. If Supplier enters into a direct contract with an Associated Party, Supplier assigns that contract to Contractor. The assignment, however, is effective only after Contractor's termination of the Purchase Order pursuant to Section 9.2.1 or 9.2.2 and only if Contractor, in its sole discretion, accepts the contract by notifying Supplier in writing within 30 calendar days of the date of termination. Except as stated in this Section, Supplier agrees not to assign its rights, duties, obligations, or claims under the Purchase Order without prior written consent of Contractor.

##### 11.2 No Waiver

Contractor does not waive or release Contractor's rights to enforce any term of the Purchase Order if Contractor does not immediately, and in all cases, enforce Contractor's rights. Contractor's silence or acquiescence on one or more occasions in no way affects Contractor's right to enforce the Purchase Order or any particular provision of the Purchase Order, nor is it to be considered a waiver by Contractor of the breach of any duty, term, condition, or provision of the Purchase Order, nor does it prevent Contractor from asserting that Supplier's failures are a breach of the Purchase Order.

##### 11.3 Applicable Law; Venue

The Purchase Order is governed by and is to be construed under the governing law set forth in the terms of the Prime Contract. If no applicable law is provided in the Prime Contract, the Purchase Order is to be governed by and construed according to the laws of the state in which the Project is located, without regard to conflict-of-laws principles. Unless provided otherwise in the Prime Contract, venue is proper in the county or judicial district in which the Project is located.

##### 11.4 Severance

If any section or portion of the Purchase Order is held to be wholly or partially contrary to law or otherwise invalid, unenforceable, or inapplicable for any reason, that section or portion will continue in effect only to the extent consistent with the law. All remaining sections and portions of the Purchase Order will remain fully valid, in force, and applicable.

##### 11.5 Merger

The Purchase Order constitutes the entire and integrated agreement between Supplier and Contractor, supersedes all prior and contemporaneous oral and written negotiations, representations, and agreements between Supplier and Contractor, and may not be modified except in writing signed by both parties.

##### 11.6 No Construction Against Drafter

Supplier has had the opportunity and obligation to review the Purchase Order and to bring to Contractor's attention any conflicts or ambiguities, and Supplier has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the Purchase Order. Accordingly, the Purchase Order will not be interpreted against the party that prepared it.

##### 11.7 Notice

A notice, demand, Dispute, or other communication or document identified or required by the Purchase Order must be served (i) by personal delivery, (ii) by a nationally-recognized, next-day courier service, or (iii) by first-class certified or overnight mail by the U.S. Postal Service, postage prepaid, to the individual's or party's address set out in the Purchase Order, to a party's designated representative for the Service Agreement, or to an officer or member of the recipient corporation or company, (iv) email to a party's designated representative for the Purchase Order, or to an officer or member of the recipient corporation or company, provided receipt is acknowledged by the addressee. Service in accordance with the Purchase Order will be effective upon the earlier of (i) receipt by an appropriate recipient, (ii) 2 working days after sending via courier, or (iii) 4 working days after mailing with the US Postal Service.



**WALSH**  
CONSTRUCTION CO.

BUILDING COMMUNITIES, EMPOWERING PEOPLE

DO NOT MAKE ANY CHANGES TO THE BODY OF THIS AGREEMENT

**SAMPLE**

**11.8 Execution of the Agreement**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal E-SIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

The parties have executed this Agreement as of the Effective Date.

**CONTRACTOR**

**SUPPLIER**

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**EXHIBIT A - INSURANCE REQUIREMENTS**

Supplier must procure and maintain insurance as required under this exhibit and the Purchase Order (collectively, "Insurance Requirements") to protect Supplier from claims that arise out of or result from furnishing the Products or other acts or omissions of Supplier, its Associated Parties, or those for whom they are responsible. All policies must be obtained from a company or companies (i) acceptable to Contractor, (ii) lawfully authorized to do business in the state where the Products are furnished, and (iii) with an AM Best rating of A-VII or better. In no event can the policies, coverage, and limits procured and maintained by Supplier fail to comply with the following:

**A.1 Required Coverage and Limits**

**A.1.1 Commercial General Liability**

Supplier must procure and maintain Commercial General Liability Insurance on the CG 00 01 04/13 form or its equivalent, written on an occurrence basis. Upon request, Supplier must disclose all exclusions and restrictive endorsements.

Commercial General Liability policy limits must be provided in amounts not less than the following:

Personal/Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000 *
Products/Completed Ops Aggregate	\$2,000,000

\* Per-Project or Per-Location General Aggregate endorsement is required.

**A.1.2 Statutory Workers' Compensation/Employer's Liability**

If Supplier delivers the Products to the Project site, Supplier must procure and maintain Workers' Compensation and Employer's Liability coverage for industrial injury to employees of Supplier (including leased / borrowed employees) in strict accordance with the Laws of the state in which the Products are furnished, notwithstanding any statutory exemption. This requirement applies without limitation to sole proprietors, partners, executive officers, and limited liability companies. If Supplier is exempt under the Laws of the state in which the Products are furnished, Supplier must elect into coverage. If Supplier is qualified as a self-insurer under the Laws of the state in which the Products are furnished, Supplier must submit evidence of excess coverage in a form acceptable to Contractor. If delivery of the Products constitutes an exposure to employees of Supplier under the U.S. Longshoremen and Harbor Workers Act, the Jones Act, or other Laws applicable to maritime employees, Supplier must procure and maintain applicable coverage

Workers' Compensation/Employer's Liability policy limits must be provided in amounts not less than the following:

Workers' Compensation Coverage	Statutory
Federal Acts Coverage (if applicable)	Statutory
Employer's Liability	
Each Accident	\$1,000,000
Disease-Each Employee	\$1,000,000
Disease-Policy	\$1,000,000

**A.1.3 Business Automobile Liability**

If Supplier delivers the Products to the Project site, Supplier must procure and maintain Business Automobile Liability insurance on the ISO form CA 00 01 or its equivalent. Such insurance must protect against claims that arise out of or result from use or maintenance of any auto or a combination of owned, non-owned, rented, and hired automobiles.

Business Automobile Liability policy limits must be provided in amounts not less than the following:

Each Accident	\$1,000,000 *
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\* Combined Single Limit - per accident for bodily injury, death of any person, and property damage



**A.1.4 Professional Liability**

If furnishing the Products, or any of their components or portions, includes providing professional services, Supplier (and any person or entity performing the professional services for whose acts or omissions Supplier may be liable) must procure and maintain Professional Liability insurance covering claims that arise from the actual or alleged errors, omissions or acts of Supplier and those for whom Supplier is responsible and are attributable to furnishing the Products. The effective date of the current policy, and the retroactive date in the current and all future policies shall be prior to the date Supplier manufactures the Products.

Professional Liability policy limits must be provided in amounts not less than the following:

Each Claim/Aggregate \$1,000,000

**A.1.5 Riggers Liability**

If delivering the Products to the Project site includes the rigging or hoisting of materials or equipment, Supplier must procure and maintain Rigger's Liability insurance to insure against physical loss or damage to the materials or equipment, including loss of use thereof.

**A.2 Additional Insureds & Primary / Non-Contributory**

To the fullest extent permitted by law, Supplier must cause all policies except Statutory Workers' Compensation, Employers Liability and Professional Liability to include the entities listed below as additional insured (collectively "Additional Insureds") for claims arising out of Supplier's acts or omissions during Supplier's operations, products and completed operations. All coverage afforded the Additional Insureds must be primary and noncontributory as to any insurance or self-insurance retention maintained by the Additional Insureds and provide the same divisions of coverage and be just as comprehensive as the coverage afforded the primary insured, as if the Additional Insureds were the primary insured. If Supplier maintains limits higher than required by the Insurance Requirements, it is the intent of the parties that the requirements of this Section A.2 apply to such higher limits.

- The Indemnified Parties (as defined in Section 8.1 of the Purchase Order); and
- Any other entities that Contractor is required to include as additional insured under the Prime Contract.

**A.3 Deductibles and Self-Insured Retention**

Any and all deductibles or self-insured retention are the responsibility of Supplier, and Supplier must disclose any such deductibles or self-insured retention to Contractor upon request.

**A.4 Waiver of Subrogation**

Supplier waives all rights against the Additional Insureds for loss or damage to the extent such loss or damage is covered by the policies required under the Insurance Requirements. Supplier shall require similar written waivers in favor of the Additional Insureds from its Associated Parties.

**A.5 Access to Full Limits**

The policies, coverage, and limits described in the Insurance Requirements are minimum requirements. Any and all policies, coverage, and limits procured or maintained by Supplier must be made available to the Additional Insureds in the event of a loss. In the event that any such policy states that 'the coverage provided to an additional insured shall be no broader than that required by contract', or words of similar meaning, the parties agree that nothing in the Purchase Order is intended to restrict or limit the breadth of such coverage or limits available. If Supplier maintains limits higher than required by the Insurance Requirements, it is the intent of the parties that the Insurance Requirements be construed as requiring such higher limits.

**A.6 Warranty and Notice Requirements**

Supplier warrants that any policy, coverage, or limit described in the Insurance Requirements will not be canceled, nonrenewed, reduced, or altered without 30 calendar days' prior written notice to Contractor (except 10 days for non-payment of premium). Supplier must provide written notice to Contractor before making any material change to any such policy, coverage, or limit.

**A.7 Evidence of Coverage**

If requested by Contractor, Supplier must provide (i) certificate(s) of insurance, and (ii) true and complete copies of policy forms or endorsements as evidence of compliance with the Insurance Requirements.



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**A.8 Failure to Maintain Required Coverage**

Supplier's failure to procure or maintain insurance, or provide notice of material change in coverage or cancellation, as required, will constitute a breach of the Purchase Order, and if Contractor is damaged by the breach, Contractor may pursue damages under applicable Laws. If Supplier fails to procure or maintain insurance as required, Contractor may, at its option, and in addition to any other rights it may have under the Purchase Order or at law or in equity, (i) terminate the Purchase Order, or (ii) purchase the insurance at Supplier's expense.

**A.9 Associated Parties and Subtiers**

It is Supplier's sole responsibility to ensure that any person or entity for whose acts or omissions Supplier may be liable procures and maintains the policies, coverage, and limits described in the Insurance Requirements, including without limitation the obligations in Sections A.2 and A.4.

**A.10 No Representation or Waiver**

Contractor does not represent or warrant that the policies, coverage, and limits required under the Insurance Requirements are appropriate or adequate to protect Supplier from all claims that may arise out of or result from furnishing the Products, or other acts or omissions of Supplier, its Associated Parties, or those for whom they are responsible. Supplier is solely responsible for determining if policies, coverage, and limits required under the Insurance Requirements are appropriate or adequate to protect itself from such claims. Supplier acknowledges and agrees that (i) compliance with the Insurance Requirements does not relieve or release Supplier from its other obligations or liabilities under the Purchase Order, and (ii) Contractor's approval or acceptance of evidence of coverage under Section A.7 does not constitute a waiver of any Insurance Requirements, nor relieve or release Supplier from liability for loss or damage not covered by, or in excess of, the policies, coverage, and limits required under the Insurance Requirements.

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