



8/25/2017

Congratulations on your award for the «ProjectDescription»!

Aristeo is committed to providing accurate and timely payment of your firm's invoice. To help in this endeavor, please have the person responsible for billing this project initial the Payment Procedure Checklist, a list of the accounting and management controls Aristeo adheres to. **DO NOT MAKE ANY REVISIONS TO THE CONTRACT.** If you have any questions or concerns, please contact Christi Conner, Contract Administrator or the Project Manager referenced in the Contract Documents at 734-427-9111.

You are not permitted to mobilize on site until the below items are submitted:

- ✓ **A signed agreement without modification within five business days or before mobilization – no exceptions**
- ✓ **A proper certificate of insurance as outlined in Exhibit B requirements and according to your scope of work.**
- ✓ **Complete and submit a Diversity Worksheet (last page)**
- ✓ **Current W9 on file**

**Any Invoices received that are not compliant with the items above and outlined in the payment procedure checklist will be rejected and returned.*

Contract Documents can be emailed to contracts@aristeo.com

Invoicing can be emailed to subap@aristeo.com



EXHIBIT A

SCOPE OF WORK:

«udSubScope»

Inclusions / Exclusions

«udInclusions»

Including but not limited to:

- All owner terms and conditions as required by the Prime agreement, Drawings, Specifications, General, Special, Supplementary, other conditions, and addenda.
- All site safety requirements including Aristeo Construction Safety Requirements.
- Coordination with all other trades as required for the complete and proper execution of the work.
- All warranties as required by all sections of the specification as it relates to the materials furnished under this agreement.



Insurance Requirements "Exhibit B"

Before mobilization on site or commencing the work, the Subcontractor(s) shall procure and maintain at their own expense, all insurance of the type and having coverage limits in the amount required, including completed operations under the Aristeo Construction Company contract, and Owner Terms and Conditions. The Contractor does not represent that any of the below listed policies, coverages or limits of protection are adequate to satisfy the interests of the Subcontractor. It shall be the obligation of the Subcontractor to determine if coverage under Section E & H are in effect and satisfactory for the risk management goals of the Subcontractor. Insurance providers must be U.S. Domiciled and have at least an A.M. Best Co. rating of an AVIII or better.

A. COMMERCIAL GENERAL LIABILITY INSURANCE including but not limited to the following coverage:

1. Premises / Operations Liability.
2. Explosion, Collapse and Underground Hazards Included.
3. Products / Completed Operations Hazards Included.
4. Contractual Liability Coverage Included.
5. Personal Injury Liability.
6. The Limits of Insurance shall be at least as follows:

\$ 2,000,000	General Aggregate Limit (Other than Products / Completed Operations)
\$ 2,000,000	Products / Completed Operations Aggregate
\$ 1,000,000	Personal and Advertising Injury Limit
udGLPerOccur	Each Occurrence Limit

If the project requires operations within 50 feet of a railroad, subject to the standard policy terms and conditions, the definition of an insured contract in the General Liability policy will be amended to delete the exception in connection with construction or demolition on or within 50 feet of a railroad.

If the project requires operations within 50 feet of a railroad and it is stipulated by the Railroad that Subcontractor provide a Railroad Protective Liability policy in the name of the specific Railroad in order to perform work on the railroad right-of-way, such a policy will be procured and maintained.

B. BUSINESS AUTOMOBILE INSURANCE with these policy coverages:

1. Owned Vehicles
2. Hired Vehicles
3. Non-Owned Vehicles
4. Each of the above listed coverages shall provide coverage in the following minimum limits:

\$1,000,000	Bodily Injury & Property Damage each accident
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C. WORKERS COMPENSATION & EMPLOYERS LIABILITY INSURANCE

1. Statutory Workers Compensation Coverage in accordance with the laws of the State within whose jurisdiction the work is performed. In the event that the work of this contract falls within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, The Jones Act or the Federal Employer's Liability Act, the Subcontractor(s) shall extend coverage to provide and maintain in full force and effect during the period covered by this subcontract, insurance against the liability imposed under either or both of these Acts as applicable, including Sole Proprietors and Corporate Officers performing work on site, \$1,000,000.00 (or Statutory Minimum).
2. Employers Liability Coverage minimum of \$1,000,000.00 each accident including Occupational Disease.
3. Policy to be endorsed with Waiver of Subrogation in favor of Aristeo Construction Company and Owner.

D. EXCESS or UMBRELLA LIABILITY INSURANCE

Excess or Umbrella coverage is to be excess over Section A, Section B and Employers Liability in Section C as identified above or per Owner requirements **3,000,000**.

E. TRUCKING/CARGO

If Subcontractor is providing trucking/hauling services, Subcontractor will maintain Motor Truck Cargo Liability Insurance covering Subcontractor for loss of or damage to any Aristeo owned, leased, or rented property/cargo whether in transit or under the Subcontractors care and or custody. Policy limits need to equal the value or replacement cost of the cargo/matter insured. Subcontractor needs to comply with Federal and State Regulations and provide the MCS-90 endorsement if transporting hazardous waste. Certificate is to be issued without tariff clause.

ISO 9001 Certified



F. PROFESSIONAL LIABILITY

If the scope of work requires design, engineering or professional services, "Professional Liability (Errors & Omissions) Insurance, in an amount not less than **\$2,000,000** per claims made or otherwise specified if Owner requirements are greater, for damages caused by any act or omission of Subcontractor, or of any other person for whose acts or omissions Subcontractor may be liable arising out of the performance of services in a professional capacity. If Subcontractor should terminate such coverage at any time before three (3) years or Owner requirement after acceptance or termination of Subcontractor's Work, Subcontractor shall provide evidence of continuing coverage in the required limits or obtain extended reporting period coverage ("tail cover"), for a period of not less than three (3) years or Owner requirement from Subcontractor's last services. Subcontractor agrees to furnish a copy of the Professional Liability policy on request.

G. ENVIRONMENTAL/POLLUTION LIABILITY

If the scope of work requires remediation, abatement, the handling of hazardous or toxic substances, or exposure to causing a pollution event, Pollution / Environmental Liability in the amount of **\$2,000,000** aggregate or otherwise specified if Owner requirement is greater. The coverage shall remain in effect for not less than 3 years following completion or as Owner contract documents dictate. *Please see Trucking/Cargo (E) if transporting hazardous waste.*

H. INSTALLATION FLOATER/BUILDERS RISK/RESPONSIBILITY FOR PROPERTY INSTALLED OR BEING INSTALLED

If the scope of work requires equipment or materials that are to be permanently installed, an Installation Floater policy shall be required with limits to reflect the contract value and/or the value of any equipment in your care, custody and control. In the event of loss or damage to Subcontractor's equipment, material or contract works during the course of construction; Subcontractor hereby agrees to first seek recovery from its own property insurance coverage if applicable. In cases of claims paid by Owners or Contractors Builders Risk Insurance coverage, Subcontractor is responsible for payment of any deductibles applied to insured losses under those policies, which arise from Subcontractors work.

Before commencing work, the Subcontractor shall furnish a certificate in the ACORD format from all insurance companies confirming that the above required insurance is in force stating policy numbers, date of expiration, and coverage thereunder. Said certificate should state Aristeo as Certificate Holder and that such insurance is in effect for any and all work performed under contract to Aristeo Construction Company, and further that Aristeo Construction Company, the Owner and any entity listed is an additional insured (except for Professional Liability and Workers Compensation) for any and all work performed under contract to them and that such coverage is on a primary and non-contributory basis. Further, it is a requirement of this subcontract that any/all additional insureds be protected to the full limits carried by Subcontractor, not just to those required by this subcontract. Waivers of Subrogation are necessary in favor of Aristeo, Owner and Prime Contractor. Subcontractor will attach to its certificate a copy of its General Liability policy endorsement under which Aristeo Construction Company, Owner or any party to be indemnified is added as an additional insured, utilizing ISO forms CG 2033 and 2037 or their acceptable equivalents. It is also agreed that all policies provide a thirty (30) day notice of cancellation or reduction in and/or elimination of protection otherwise provided under these policies to Aristeo Construction Company.

If the Subcontractor fails to procure and maintain such insurance(s), Aristeo Construction Company shall have the right to procure and maintain the said insurance(s) for and in the name of the Subcontractor and the Subcontractor shall pay the cost thereof and shall furnish all necessary information to make effective and maintain such insurance(s). At the option of Aristeo Construction Company, the cost of said insurance(s) purchased by Aristeo Construction Company for the Subcontractor shall be deducted from any amounts then due or which would thereafter become due to the Subcontractor under this or any other contract between Aristeo Construction Company and the Subcontractor.

Additional Insureds:
«udAddInsuredforContract»

Reference Job # «Project»

Certificate Holder: Aristeo Construction, 12811 Farmington Rd., Livonia, MI 48150

Initial _____

Fax Certificate to: 734-793-5536 Email Certificate to: contracts@aristeo.com



SUBCONTRACT
Terms and Conditions

ARTICLE 1
GENERAL PROVISIONS

1.1 GENERAL OBLIGATIONS The Prime Contract, including all general conditions; appendices; special and supplemental conditions or provisions; drawings or plans; specifications; addenda; and modifications, supplements, amendments, changes, or additions thereto issued prior to this Subcontract Date, and all modifications issued subsequent to this Subcontract Date (collectively the "Prime Contract") is made a part of this Subcontract and is incorporated herein by reference. In connection with the work, service, materials, or goods covered by this Subcontract, Subcontractor fully assumes toward Contractor all obligations and responsibilities that Contractor assumes toward Owner under the Prime Contract and Contractor shall have all rights and remedies as to Subcontractor which Owner has as to Contractor under the Prime Contract. Subcontractor acknowledges and represents to Contractor that it has carefully examined and reviewed the Prime Contract and is familiar and satisfied with the provisions of the Prime Contract as it may have any effect upon Subcontractor's rights or performance under this Subcontract.

1.2 EXTENT OF AGREEMENT This Subcontract represents the entire agreement of the parties. All of the terms and conditions set forth herein are an integral part of the Subcontract, supersede any contrary provisions, supersede Subcontractor's quotation form or proposal, and may not be varied or modified in any manner, except by a subsequent writing signed by an authorized representative of Contractor. In the event of conflicts or inconsistencies between provisions of this Subcontract and the Prime Contract documents, this Subcontract shall govern.

1.3 ACCEPTANCE OF TERMS Subcontractor's execution of this Subcontract, shipment of the material or any portion thereof, the commencement of any work, or the performance of any services hereunder shall constitute acceptance by Subcontractor of all conditions contained in this Agreement. **WAIVER BY CONTRACTOR OF ANY PROVISION OF THIS SUBCONTRACT SHALL NOT BE DEEMED AS A WAIVER OF FURTHER COMPLIANCE THEREWITH, AND SUCH PROVISIONS SHALL REMAIN IN FULL FORCE AND EFFECT.**

1.4 TIME/SCHEDULE. *Time is of the essence of this Subcontract.* In consultation with Subcontractor, the Contractor shall prepare the schedule for performance of Contractor's work ("Progress Schedule") and shall revise and update such schedule, as necessary, as Contractor's work progresses. Subcontractor shall provide Contractor with any scheduling information proposed by Subcontractor for Subcontract Work and shall revise and update as the Project progresses. Contractor and Subcontractor shall be bound by the Progress Schedule. The Progress Schedule and all subsequent changes and additional details shall be submitted to Subcontractor reasonably in advance of required performance. Contractor shall seek the mutual consent of the Subcontractor, but ultimately shall have the right to determine and, if necessary, change the time, order and priority in which various portions of Subcontract Work shall be performed and all other matters relative to Subcontract Work.

1.5 RELATIONSHIP OF PARTIES. The Subcontractor accepts the relationship of trust and confidence established by this Agreement and pledges its fullest cooperation with the Contractor to exercise its skill and judgment in furthering the interests of the Contractor; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Contractor's interests. The Contractor agrees to furnish and approve, in a timely manner, information required by the Subcontractor and to make payments to the Subcontractor in accordance with the requirements of this Agreement. Subcontractor shall not assign or sub-subcontract the whole or any part of Subcontract Work or this Agreement without prior written approval of Contractor. The Subcontract Documents shall not be construed to create a contractual or third-beneficiary relationship of any kind (1) between the Architect and the Subcontractor, (2) between the Owner and the Subcontractor, or (3) between any persons or entities other than the Contractor and the Subcontractor. However, the Subcontractor's standard sub-subcontract and material purchase orders shall provide that the Contractor is an intended third party beneficiary of those second-tier agreements.

ARTICLE 2
SUBCONTRACTOR'S OBLIGATIONS

2.1 SUBCONTRACT WORK. Subcontractor shall perform Subcontract Work under the general direction of Contractor and shall cooperate with Contractor so Contractor may fulfill obligations to Owner. The Subcontract Work shall be carried out in strict compliance with the Subcontract. Subcontractor shall provide Subcontract Work for the Project in accordance with the Progress Schedule to be prepared by Contractor after consultation with Subcontractor, and as it may change from time to time. Subcontractor shall give timely notices to Contractor and to authorities pertaining to Subcontract Work, and shall be responsible for all permits, fees, licenses, assessments, inspections, testing and taxes necessary to complete Subcontract Work.



2.2. FAMILIARITY WITH THE SITE. Subcontractor's execution of the Subcontract is a representation that the Subcontractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, the status of any construction at the site, and correlated personal observations with requirements of the Contract Documents as is reasonable ascertainable from such information. Subcontractor further represents that it has carefully reviewed all information that has been made available to subcontractor concerning visible and concealed conditions at the Site and in existing Improvements (including, without limitation, surveys, reports, data, as built drawings of existing improvements and utility sources, capacities and locations) and has considered all such factors and requirements in formulating its price(s) and performance time determinations.

2.3 TAXES. Contractor shall obtain from Owner and provide to Subcontractor a copy of tax exempt certificates, if any, applicable to this Project. Notwithstanding the foregoing, it is Subcontractor's obligation to determine all local, state, and federal taxes measured by or imposed in connection with the performance of the Subcontract Work or furnishing of materials hereunder, including by not limited to all sales, consumers, and use taxes imposed by reason of the purchase or use of any kind of personal property in the performance hereof. The Subcontractor shall incorporate into the Subcontract Amount, and pay, all such applicable taxes that were legally required at the time of execution of this Subcontract, whether or not yet effective or merely scheduled to go into effect. The Subcontractor shall secure, defend, protect, hold harmless, and indemnify the Contractor from and against any and all liability, loss, claims, demands, suits, costs, fees and expenses (including actual fees and expenses of attorneys, expert witnesses, and other consultants) relating to any taxes assessed or imposed upon, incurred by or asserted against the Contractor by any taxing authority with respect to such taxes. The Subcontractor shall cooperate with and assist the Contractor in securing qualified refunds of any sales or use tax paid by the Contractor or Subcontractor on goods, products, materials, equipment or systems. Any refund secured shall be paid to the Contractor.

ARTICLE 3 SAFETY

3.1 SAFETY PROGRAM To protect persons and property, Subcontractor shall establish a safety program implementing safety measures, policies and standards conforming to (1) those required or recommended by governmental and quasi-governmental authorities having jurisdiction and (2) requirements of this Agreement. Subcontractor assumes responsibility for all jobsite safety related to Subcontractor's Work.

3.2 CLEANING UP Subcontractor at all times shall keep the Site free from debris such as waste, rubbish and excess materials and equipment caused by the performance of the Work. Subcontractor shall not leave debris under, in or about the Site but shall promptly remove same from the Site. Upon Final Completion, and as a condition precedent to final payment, Subcontractor shall remove from the job site all tools, surplus materials, equipment, scrap, debris, and waste, and leave the site "broom clean." If Subcontractor fails upon 24 hours' notice from Contractor to perform its cleaning obligation, Contractor may arrange to do so, and backcharge the Subcontractor the cost thereof.

ARTICLE 4 CHANGES

4.1 CONTRACTOR CHANGES. Contractor may, in writing signed by its authorized agent and without notice to Subcontractor's surety (if any) and without invalidating this Subcontract, make changes by substituting for, adding to, deducting from or otherwise changing the Subcontract Work, with the Subcontract Price and performance time adjusted accordingly. However, Subcontractor will not perform any changes absent a prior written directive signed by Contractor's authorized agent. Any extra work performed without Contractor's written directive in accordance with this Subcontract will be at Subcontractor's sole expense, including any extra work attributable solely to Contractor's acts or omissions. In addition, Subcontractor shall be liable for any and all losses, costs, expenses, damages, and liability of any nature whatsoever associated with or in any way arising out of any such change it makes without written direction from Contractor. All change proposals must strictly comply with the Prime Contract, including but not limited to any mark-up limitations, and be submitted in time for the Contractor to comply with the timeliness requirements thereof, or Subcontractor's claim is deemed waived. Subcontractor is bound by any decisions of Owner relating thereto. No act, omission or course of dealing by the parties shall alter the requirement that modifications of the Subcontract Amount or time of performance can be accomplished only by written documents signed by the parties.

4.2 SUBCONTRACTOR CHANGES. If Subcontractor discovers a condition or situation that it believes constitutes a change to its Work, or otherwise requires a change to the Contract Documents, Subcontractor shall provide written notice of the change within five (5) calendar days from discovering such changed condition or situation. If a dispute arises between Contractor and Subcontractor about whether particular work constitutes a change to the Work, Subcontractor, upon direction from Contractor, shall timely perform the disputed work and give written notice of any claim for additional compensation for the disputed work within seven (7) days after the disputed work was performed. Subcontractor's failure to give timely notice of any change and claim constitutes an agreement by it that Subcontractor will not be paid for the disputed work.



4.3 DOCUMENTATION. When time and material, hourly rate or overtime work is authorized by Contractor in accordance with this Article 4, Subcontractor will submit time sheets and material delivery records on a daily basis for signature by Contractor's Superintendent or authorized representative. If requested by Contractor, Subcontractor will provide access to all pertinent records required to establish the validity of payment requests. No payment will be due for time and material, hourly rate or overtime work absent strict compliance with this Section 4.3. Contractor's Superintendent's signature on these records only verifies hours worked or material delivered and assumes that Subcontractor has submitted a proposed change and obtained Contractor's written approval in accordance with this Subcontract to undertake time and material, hourly rate or overtime work; the signature does not constitute approval for a change to the Subcontract Work or Subcontract Price. Overtime will not result in an adjustment to the Subcontract Price unless Contractor requests specific overtime in writing and agrees in writing to adjust the Subcontract Price for the overtime work specified. Such overtime will be chargeable at actual cost of the premium portion of labor only (without markups for overhead or profit), plus legally applicable labor taxes and fringes. All other overtime shall be deemed voluntary and is at Subcontractor's sole expense.

4.4 SUBCONTRACTOR'S CLAIM. Notwithstanding any other provision of this Subcontract, Contractor will be liable to Subcontractor for any delay, interference, acceleration or other damages to Subcontractor, resulting from or arising out of any acts or omissions by Owner or Architect or anyone for whom either of them may be responsible, fire or other casualty, riots, strikes or other combined action of the workmen or others, any acts of God, or any other causes beyond Contractor's reasonable control, but only if and to the extent Owner is liable to Contractor for such damages and actually pays Contractor for such damages or grants a time extension. It is expressly understood that the only obligation Contractor has to Subcontractor under this provision is to pass on to Owner any claim Subcontractor has for such damages or time, and to pay to Subcontractor any amounts which Owner pays to Contractor or grants time extensions as a result of such claim. Subcontractor will reimburse Contractor for all costs and expenses, including attorneys' fees, incurred in connection with presenting any such claim to Owner.

4.5 TIME REQUIREMENTS. If the time periods in the Prime Contract are shorter for the giving of notice of change or delay, notice of claims, demands for relief in the case of disputes, or notice to correct a default, then Subcontractor agrees to meet the shorter period as a requirement of this Subcontract.

ARTICLE 5 PAYMENT

5.1 SCHEDULE OF VALUES. As a condition of payment, Subcontractor shall provide a schedule of values satisfactory to Contractor not more than fifteen (15) Days from the date of this Agreement.

5.2 PROGRESS AND FINAL PAYMENTS. Progress payments, less retainage, shall be made to Subcontractor, for Subcontract Work satisfactorily performed, no later than seven (7) Days after receipt by Contractor of payment from Owner for Subcontract Work. Final payment of the balance due shall be made to Subcontractor no later than seven (7) Days after receipt by Contractor of final payment from Owner for Subcontract Work. These payments are subject to (i) approval of the Work by Contractor and Owner's representative, to the extent required by the Prime Contract; (ii) a properly executed sworn statement and a partial or a final construction lien waiver, as the case may be, in a form substantially complying with applicable state law; (iii) construction lien waivers appropriate to the stage of the Work from all sub-subcontractors and suppliers; (iv) submittal of all warranties, guarantees or other documentation required by this Agreement and (v) compliance by Subcontractor with all other Contract Documents requirements. Moreover, Contractor's receipt of payment for Subcontractor's work from Owner shall, to the fullest extent permitted by Law, be an express condition precedent to the right of Subcontractor to receive payment from Contractor. Subcontractor's right to payment shall not be enlarged by reason of the existence of any labor and material payment bond, mechanic's lien discharge bond or other security that may exist.

5.3 TRUST FUNDS. Any and all funds payable to Subcontractor hereunder are declared to constitute trust funds in the hands of Subcontractor, to be applied first to the payment of claims of Subcontractor's subcontractors, laborers and suppliers arising out of the Work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety bonds and other bonds before application to any other purpose.

5.4 PAYMENTS WITHHELD. Contractor may reject a Subcontractor payment application or nullify a previously approved Subcontractor payment application, in whole or in part, as may reasonably be necessary to protect Contractor from loss or damage caused by Subcontractor's failure to (1) timely perform Subcontract Work, (2) properly pay its subcontractors or suppliers, or (3) promptly correct rejected, defective or nonconforming Subcontract Work, (4) third party claims involving the Subcontractor or reasonable evidence demonstrating that third party claims are likely to be filed unless and until the Subcontractor furnishes the Contractor with adequate security in the form of a surety bond, letter of credit or other collateral or commitment which are sufficient to discharge such claims if established.

5.5 LIEN BOND. Provided Subcontractor has been paid in a timely manner, in the event that any of Subcontractor's subcontractors, material suppliers, laborers, or lower-tier subcontractor, suppliers, or laborers records a valid Construction Lien against the Property, and the lien claim is not resolved such that the lien claimant does not voluntarily remove the lien within 30 days of its recording, then Contractor has the



right to demand that Subcontractor obtain and record a Lien Discharge Bond. Subcontractor shall promptly obtain and record a Lien Discharge Bond, at Subcontractor's expense, if the Owner so elects to exercise this right.

5.6 WAIVER OF CLAIMS. Subcontractor's receipt of Final Payment from Contractor shall constitute a waiver of all claims by Subcontractor relating to Subcontract Work, but shall in no way relieve Subcontractor of liability for warranties, or for nonconforming or defective work discovered after final payment.

5.7 DEVIATION FROM PAYMENT TERMS. If, at Subcontractor's request or in Contractor's judgment, Contractor is required to deviate from its normal progress payment procedures due to the Subcontractor's inability to meet its obligation under the Subcontract, any additional cost or expense thereby incurred may be back charged against any sum due or to become due to Subcontractor, including an administrative fee equal to two percent (2%) of each affected payment.

ARTICLE 6 INSURANCE, BONDS AND INDEMNITY

6.1 SUBCONTRACTOR'S INSURANCE. Before commencing the Subcontract Work, and as a condition precedent of payment, the Subcontractor shall purchase and maintain all insurance set forth in Exhibit B that will protect it from claims arising out of its operations under this Agreement, whether the operations are by the Subcontractor, or any of its consultants or sub-subcontractors or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Subcontractor shall name as an Additional Insured on its insurance policies for all purposes, including completed operations coverage, for the period required by the Prime Contract documents: the Contractor; Owner; any party identified as an Indemnity in the Prime Contract; and anyone the Contractor is required to name as an Additional Insured in the Prime Contract.

6.2 CONTRACTOR'S LIABILITY INSURANCE. The Contractor shall obtain and maintain its own liability insurance for protection against claims arising out of the performance of this Agreement, including without limitation, loss of use and claims, losses and expenses arising out of the Contractor's errors or omissions.

6.3 BONDS. When required by the Subcontract, Subcontractor shall furnish to Contractor, as Oblige, surety bonds in a form acceptable to the Owner, and through a surety mutually agreeable to Contractor and Subcontractor, to secure faithful performance of Subcontract Work and to satisfy Subcontractor payment obligations related to Subcontract Work.

6.4 INDEMNITY. To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's other subcontractors, the Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnittees) from all claims for bodily injury and property damage that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, that arise from the performance of the Work, but only to the extent caused by the acts or omissions of the Subcontractor, the Subcontractor's sub-subcontractors or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

6.5 RISK OF LOSS. Except to the extent a loss is covered by applicable insurance, risk of loss and/or damage to the Subcontract Work shall be upon the Subcontractor until the Date of Substantial Completion, unless otherwise agreed to by the Parties.

ARTICLE 7 TERMINATION

7.1 TERMINATION FOR DEFAULT: Should Subcontractor at any time (i) fail to supply a sufficient number of skilled workmen or a sufficient quantity of materials of proper quality; (ii) fail to commence and/or to prosecute the Subcontract Work with promptness and diligence; or (iii) fail to meet specified quality requirements, Contractor may, at its option, after forty-eight (48) hours' notice to Subcontractor and its surety, if any, furnish those materials, equipment and/or employ such workers or subcontractors as Contractor deems necessary to maintain the orderly progress of Contractor's work. In the event of an emergency affecting the safety of persons or property, Contractor may proceed as above without notice, but Contractor shall give Subcontractor notice promptly after-the-fact as a precondition of cost recovery. Alternatively, Contractor may, at its option, in addition to other available legal and equitable remedies, terminate the Subcontract, and shall then have the right to take possession, for the purpose of completing the Subcontract Work, of all the materials, tools, and non-Subcontractor owned equipment Subcontractor has on site, to finish the Subcontract Work. Contractor shall issue written notice confirming the termination to Subcontractor and its surety, if any, at the time this Agreement is terminated.

7.1.1 In the event of such a termination, Subcontractor agrees to assign to Contractor any purchase order or subcontract that Contractor deems necessary to complete the Subcontract Work. Contractor will credit Subcontractor's account with the value of the materials and supplies so used but there will be no credit for rent on equipment.



7.1.2 In the event Contractor performs or completes Subcontract Work pursuant to Paragraph 7.1, all costs incurred by Contractor, including reasonable overhead, profit and attorneys' fees, costs and expenses ("Contractor's completion costs"), shall be deducted from any monies due or to become due Subcontractor. Subcontractor shall be liable for payment of any amount by which such expense may exceed the unpaid balance of the Subcontract Amount. If Contractor's completion costs are less than the monies due Subcontractor as of the date of the termination, then Subcontractor shall receive as its entire and sole compensation the balance after deducting the Contractor's completion costs. At Subcontractor's request, Contractor shall provide a detailed accounting of the costs to perform or to finish Subcontract Work.

7.1.3 The Parties agree that the terms of this article shall be binding if Contractor in good faith has determined that Subcontractor's performance is inadequate and that the Owner or Contractor or other subcontractor may be damaged, or Contractor may be unable to perform its contractual obligations, unless Contractor proceeds under this Article. The Parties agree that such determinations are difficult to make and must be made under pressing circumstances, and agree to be bound in accordance with this Article in light of the circumstances confronting Contractor at the time such a decision is made.

7.2 TERMINATION FOR CONVENIENCE BY CONTRACTOR OR OWNER: Contractor may, at its option, terminate for convenience the Subcontract Work in whole or in part by written notice to Subcontractor and its surety, if any. Such notice shall specify the extent to which the performance of work is terminated and the effective date of such termination. Upon receipt of such notice, Subcontractor shall; (a) immediately discontinue the Subcontract Work on the date and to the extent specified in the notice and enter into no further sub-subcontracts or purchase orders, other than as may be required for completion of such portion of the Subcontract Work that is not terminated; (b) promptly obtain cancellation upon terms satisfactory to Contractor on all purchase orders, sub-subcontracts, rentals, or any other agreements existing for the performance of the terminated work or assign those agreements to Contractor as directed; (c) assist Contractor in the maintenance, protection, and disposition of work in progress, plant, tools, equipment, property, and materials acquired by Subcontractor or furnished by Subcontractor under this contract; and (d) complete performance of the Subcontract Work which is not terminated. Upon any such termination, Contractor shall have no liability for any damages, including loss of anticipated profits.

7.2.1 As its sole right and remedy, Subcontractor shall be paid the following: (a) all amounts due and not previously paid to Subcontractor for Subcontract Work completed in accordance with the Subcontract prior to such notice of termination, and for work thereafter completed as specified in such notice; (b) reasonable administrative costs of settling and paying claims arising out of the termination of Subcontract Work under sub-subcontracts or purchase orders; and (c) reasonable costs incurred in demobilization and the disposition of residual material, plant and equipment.

7.2.2 Subcontractor shall submit within 30 days after receipt of notice of termination, a proposal for an adjustment in compensation, including all incurred costs described in Paragraph 7.2.1 above. Contractor shall review, analyze, and verify such proposal, and, if not satisfied, negotiate an equitable adjustment, and the Subcontract shall be amended in writing accordingly.

7.2.3 In the event any termination of the Subcontractor for default under the default termination article is later determined to have been improper, the termination shall automatically be deemed a termination for convenience and the Subcontractor shall be limited in its recovery strictly to the compensation provided for in this subsection.

7.3 IMMEDIATE TERMINATION. Contractor may terminate this Agreement immediately upon written notice to Subcontractor (a) upon the failure of Subcontractor to maintain the insurance required under this Agreement; (b) if Contractor believes in good faith that the Subcontractor is failing or refusing to take reasonable measures to cure the default within the notice periods in Paragraph 7.1; or (c) in an accelerated situation or condition where the Contractor reasonably believes that the Schedule will not permit the notice specified in Paragraph 7.1.

7.4 CONTINGENT ASSIGNMENT OF SUBCONTRACT. In the event the Owner terminates the Prime Contract for cause, this Subcontract is assigned to the Owner at the Owner's option, upon written notice to the Subcontractor.

ARTICLE 8 DISPUTES

8.1 DAMAGES. If the prime agreement provides for liquidated or other damages for delay beyond the completion date set forth in this Agreement, and such damages are assessed, Contractor may assess a share of the damages against Subcontractor in proportion to Subcontractor's share of responsibility for the delay. However, the amount of such assessment shall not exceed the amount assessed against Contractor. Nothing in this Agreement shall be construed to limit Subcontractor's liability to Contractor for Contractor's actual delay damages caused by Subcontractor's delay.

8.1.1 CONTRACTOR CAUSED DELAY. Nothing in this Agreement shall preclude Subcontractor's recovery of delay damages caused by Contractor, provided Subcontract complies with Article 4.



8.2 WORK CONTINUATION AND PAYMENT. Unless otherwise agreed in writing, Subcontractor shall continue Subcontract Work and maintain the Progress Schedule during any dispute resolution proceedings. If Subcontractor continues to perform, Contractor shall continue to make payments in accordance with this Agreement.

8.3 MULTIPARTY PROCEEDING. The Parties agree, to the extent permitted by the prime agreement, that all Parties necessary to resolve a claim shall be Parties to the same dispute resolution proceeding. To the extent disputes between Contractor and Subcontractor involve in whole or in part disputes between Contractor and Owner, disputes between Subcontractor and Contractor shall be decided by the same tribunal and in the same forum as disputes between Contractor and Owner.

8.4 NO LIMITATION OF RIGHTS OR REMEDIES. Nothing in Article 8 shall limit any rights or remedies not expressly waived by Subcontractor which Subcontractor may have under lien laws or payment bonds.

8.5 DIRECT DISCUSSION. If a dispute arises out of or relates to this Agreement, the Parties shall endeavor to settle the dispute through direct discussion.

8.6 MEDIATION. Disputes between Subcontractor and Contractor not resolved by direct discussion shall be submitted to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association. The Parties shall select the mediator within fifteen (15) Days of the request for mediation. Engaging in mediation is a condition precedent to any form of binding dispute resolution.

8.7 BINDING DISPUTE PROCESS. If the dispute arising from or relating to this contract is unresolved after mediation, the Parties shall submit the matter to the binding arbitration, and a court of competent jurisdiction may enter a judgment on the award the arbitrator renders. The parties shall use the current Construction Industry Arbitration Rules of the American Arbitration Association. The Parties shall mutually agree upon the administration of the arbitration.

8.8 COST OF DISPUTE RESOLUTION. The costs of any binding dispute resolution procedure, including attorney and/or professional fees, shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

8.9 VENUE. The venue of any binding dispute resolution procedure shall be the location of the Project, unless the Parties agree on a mutually convenient location.

ARTICLE 9 WARRANTY

9.1 WARRANTY. Subcontractor fully warrants the quality and workmanship of its work or material furnished under this Subcontract in the same manner and upon the same terms and conditions as Contractor warrants its work and materials under the Prime Contract. In the event no warranty is provided under the Prime Contract, Subcontractor warrants to Contractor that the materials and equipment furnished under this Subcontract shall be of good quality and new unless otherwise specified in the Prime Contract and that Subcontractor's Work shall be free from defects in materials and workmanship and that the Work conforms to the requirements of the Prime Contract for a period of two (2) years following issuance of final payment under this Subcontract, unless the Prime Contract specifies a longer period which in that event shall govern. Subcontractor shall immediately, upon notice from Contractor, remove, replace, and otherwise remedy, at its sole expense, any work, materials, or equipment not conforming to warranty terms. Subcontractor acknowledges these legal obligations to remedy defective work and resulting damage are independent of, and shall apply regardless of coverage and exclusion terms in its insurance policies.

ARTICLE 10 MISCELLANEOUS

10.1 CONSTRUCTION. The Parties expressly agree that they both had opportunity to negotiate terms and to obtain assistance of counsel in reviewing terms prior to execution. This Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

10.2 NON-DISCRIMINATION: Subcontractor certifies that it will, and Subcontractor shall, comply with all applicable Executive Orders and Federal, state and local laws, ordinances, rules, and regulations governing Equal Employment Opportunity and shall treat all persons without regard to sex, race, creed, color or national origin.

10.3 NON-SEGREGATED FACILITIES: By acceptance of this contract, Subcontractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit any of its employees to perform their services at any location, under its control, where segregated facilities are maintained. Subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract.

10.4 LICENSED AND REGISTERED BUSINESS Subcontractor hereby represents and warrants to Contractor that it has obtained or will obtain in a timely manner all professional and trade licenses required for performing the Subcontract work required by any governmental or quasi-

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governmental entity having jurisdiction over the Project, including, without limitation, approvals from the City and the State where the work shall be performed ("the Licenses"). Subcontractor shall obtain and keep in force during its performance of the Work, the Licenses and shall inform Contractor immediately of any lapse in the Licenses or any communications Subcontractor receives from any governmental authority regarding the Licenses. Subcontractor further represents and warrants to Contractor that is legally qualified and authorized to conduct business in the State where the work shall be performed. Subcontractor shall provide Contractor, upon written request, copies of supporting documentation to substantiate the representations in this Paragraph, including but not limited to Certificate of Good Standing from the Secretary of State and Licenses from the jurisdiction where the work shall be performed.

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**SUPPLEMENTAL TERMS AND CONDITIONS TO
ARISTEO COMPANY'S SUBCONTRACT**

If any part of the work called for and contracted for in the Contract should take place in any of the following states, the following respective addendum for such state shall be expressly incorporated by reference into the Terms and Conditions of the Contract as though it were stated therein. The terms and conditions of this Addendum, if and where applicable, shall be in addition to the terms and conditions set forth in the Contract and shall control in the event of any conflict between the terms and conditions hereof and the Contract.

ALABAMA

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

Notwithstanding anything else in this Subcontract or Contract documents, it is specifically understood and agreed that the obligation of the Contractor to make any payment under this Subcontract is subject to the express and absolute condition precedent of payment by Owner. The insolvency of the Owner or any non-payment from the Owner to the Contractor will defeat a claim of nonpayment brought by the Subcontractor against the Contractor. The risk of insolvency of the Owner or any non-payment from the Owner to the Contractor will be borne by the Subcontractor.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby expressly waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims. Subcontractor agrees to indemnify the Contractor for all liabilities that arise in any way, directly or indirectly, from Subcontractor's work under this Subcontract.

ARIZONA

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the owner. Payments to Subcontractor will derive from these payments from Owner and only from such payments.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims.

DELEWARE

1) Section 9.2

After first line ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract work." Add:

Payment from Owner to Contractor is an express condition precedent to the payment from the Contractor to the Subcontractor. In the event that payment is not made to Contractor from Owner for any reason whatsoever, Subcontractor shall look exclusively to the Owner for payment and Contractor shall not be obligated to pay Subcontractor.

2) Section 10

In the section on indemnity, add the following language (bolded language is the additional language):

To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's other subcontractors, the Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnitees) from all claims for bodily injury, property damage, or any damage claims that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, that arise from the performance of the Work, regardless of whichever party or whomever may have been guilty of the negligence which actually caused the injury, including Contractor's or other Indemnitees' own negligence. Subcontractor expressly agrees and acknowledges that it is assuming liability for the Contractor's or any other Indemnitee's own negligence.

3) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In claims against the Contractor or the Owner by an employee of the Contractor, Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts that they may be liable, Subcontractor shall indemnify and hold harmless Contractor and such indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a

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Subcontractor under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. Should any claim be brought stemming from Subcontractor's failure to perform its work or have its work performed in a workmanlike manner, Subcontractor shall indemnify Contractor for any claims arising from any claims arising from the Subcontractor's own negligence or the Contractor's own negligence. The Parties expressly hold that under 19 Del. C. § 2304, Subcontractor expressly provides by way of this written contract that Subcontractor waives its limitation on liability and may be liable to Contractor for damages, contribution, or indemnity as set forth in this section above.

GEORGIA

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the owner.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby expressly waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims. Subcontract agrees that no act shall preclude such third-party indemnity actions against it.

ILLINOIS

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

Payment from Owner to Contractor shall be an express condition precedent to payment being owed from Contractor to Subcontractor.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims.

INDIANA

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the Owner.

2) Section 6.4

In the section on indemnity, add the following language (changes in bold):

6.4. INDEMNITY. To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's other subcontractors, the Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnitees) from all claims for bodily injury and property damage that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses. This indemnification applies to any claims that arise from the performance of the Work, but only to the extent caused by the negligent acts or omissions of the Subcontractor, the Subcontractor's Sub-Subcontractors or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

3) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims.

KENTUCKY

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the owner. No instances of Contractor making payment to Subcontractor despite not first receiving full payment shall be treated as a waiver of this clause. This clause will be enforced despite any course of performance to the contrary.

**LOUISIANA**1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:
It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the owner. No claim may be brought against Contractor or its surety until such payment from Owner has been received.

2) Section 6.4

In the section on indemnity, add the following language (bolded language is the additional language):
To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's other subcontractors, the Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnitees) from all claims for bodily injury and property damage that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, that arise from the performance of the Work, of any and every kind arising out of the Subcontract Agreement, including Contractor's own negligence or sole negligence, as well as claims against the Contractor stemming from strict liability.

3) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:
In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims.

MARYLAND1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:
It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the owner.

2) Section 6.4 [To be added only to Non-Construction Contracts]

In the section on indemnity, add the following language (bolded language is the additional language):
To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's other subcontractors, the Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnitees) from all claims for bodily injury and property damage that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, that arise from the performance of the Work, of any and every kind arising out of the Subcontract Agreement, including Contractor's own negligence.

3) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:
In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims.

MINNESOTA1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:
Payment from Owner to Contractor shall be an express condition precedent to payment being owed from Contractor to Subcontractor.

2) Section 6.4 [To be added only to Non-Construction Contracts]

In the section on indemnity, add the following language (bolded language is the additional language):
To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's other subcontractors, the Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnitees) from all claims for bodily injury and property damage that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, that arise from the performance of the Work, of any and every kind arising out of the Subcontract Agreement, including Contractor's own negligence. Subcontractor agrees to indemnify and save harmless the Contractor, his agents and employees from all such claims including without limiting the generality of the foregoing, claims for which the Contractor may be, or may be claimed to be, liable.

3) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

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In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims.

MISSISSIPPI

1) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. Under this provision of this written contract the parties expressly agree to such contribution or indemnification regardless of any contribution limitations contained in Miss. Code Ann. § 71-3-9.

MISSOURI

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

Notwithstanding anything else in this Subcontract or Contract documents, it is specifically understood and agreed that the obligation of the Contractor to make any payment under this Subcontract is subject to the express and absolute condition precedent of payment by Owner. The insolvency of the Owner or any non-payment from the Owner to the Contractor will defeat a claim of nonpayment brought by the Subcontractor against the Contractor. The risk of insolvency of the Owner or any non-payment from the Owner to the Contractor will be borne by the Subcontractor. This clause will be deemed dominant in the case of any ambiguity caused between this clause and any other in the Subcontract or Contract.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby expressly waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims. Subcontractor agrees to indemnify the Contractor for all liabilities that arise in any way, directly or indirectly, from Subcontractor's work under this Subcontract.

NEW JERSEY

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the owner. Subcontractor expressly bears the risk of nonpayment by the Owner.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims.

NEW YORK

1) Section 6.4

In the section on indemnity, add the following language (changes in bold):

6.4. INDEMNITY. To the fullest extent permitted by New York law, generally, and NY CLS Gen. Oblig. § 5-322.1, specifically, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's other subcontractors, the Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnitees) from all claims for bodily injury and property damage that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, that arise from the performance of the Work, but only to the extent caused by the negligent acts or omissions of the Subcontractor, the Subcontractor's Sub-Subcontractors or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision of this written contract expressly agrees to such contribution or indemnification regardless of any contribution limitations contained in NY CLS Work. Comp. § 11.

**NORTH CAROLINA**1) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby expressly waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims. Subcontract agrees that no act shall preclude such third-party indemnity actions against it.

OHIO1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the owner.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims.

PENNSYLVANIA1) Section 5.2:

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract work." add:

Payment from Owner to Contractor is an express condition precedent to payment from the Contractor to the Subcontractor. In the event that payment is not made to Contractor from Owner for any reason whatsoever, Subcontractor shall look exclusively to the Owner for Payment.

2) Section 6.4

In the section on indemnity, add the following language (bolded language is the additional language):

To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's other subcontractors, the Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnitees) from all claims for bodily injury and property damage that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, that arise from the performance of the work, of any and every kind arising out of the Subcontract Agreement, including Contractor's own negligence.

3) Exhibit B, Section C

At the end of the last section of Section 1, insert the following:

In claims against the Contractor or the Owner by an employee of the Contractor, Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts that they may be liable, Subcontractor shall indemnify and hold harmless Contractor and such indemnification obligation shall not be limited by a limitation on amount or type of damage, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. The Parties expressly hold that under 77 P.S. § 481(b), Subcontractor and its insurance companies expressly provide by way of this written contract that Subcontractor and its insurance companies waive their limitations on liability and may be liable to Contractor for damages, contribution, or indemnity.

SOUTH CAROLINA1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the owner.

2) Section 6.4

In the section on indemnity, add the following language (bolded language is the additional language):

To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's other subcontractors, the Architect/Engineer, the Owner and their agents, consultants and employees (the Indemnitees) from all claims for bodily injury and property damage that may arise from the performance of the Subcontract Work, including reasonable attorneys' fees, costs and expenses, that arise from the performance of the Work, of any and every kind arising out of the Subcontract Agreement, including Contractor's own negligence.

3) Exhibit B, Section C

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At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby expressly waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims. Subcontract agrees that no act shall preclude such third-party indemnity actions against it.

TENNESSEE

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the owner.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby expressly waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims. Subcontract agrees that no act shall preclude such third-party indemnity actions against it.

TEXAS

1) Section 5.2

After first line, ending "(7) Days after receipt by Contractor of payment from Owner for Subcontract Work." add:

It is specifically understood and agreed that payment to Subcontractor is dependent, as an express condition precedent, upon Contractor receiving contract payments, including retainer, from the Owner. The insolvency of the Owner or any non-payment from the Owner to the Contractor will defeat a claim of nonpayment brought by the Subcontractor against the Contractor. The risk of insolvency of the Owner or any non-payment from the Owner to the Contractor will be borne by the Subcontractor.

2) Exhibit B, Section C

At the end of the last sentence of Section 1, insert the following:

In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor hereby expressly waives any limitation on its liability under any workers compensation acts, disability acts, or other employee benefit acts. This provision will explicitly apply to, but will not be limited to, any 'third party over' claims. Subcontractor hereby agrees to indemnify Contractor for any claims brought by Subcontractor's employees and expressly waives its rights under Tex. Lab. Code Ann. § 401.004.



Payment Procedure Checklist

Aristeo is committed to providing accurate and timely payment of your firm’s invoice. To help in this endeavor, please have the person responsible for billing this project read below the list of accounting and management controls Aristeo adheres to. DO NOT MAKE ANY REVISIONS TO THE CONTRACT. If you have any questions or concerns, please contact Christi Conner, Contract Administrator or the Project Manager’s referenced in the Contract Documents at 734-427-9111.

MANDATORY PAPERWORK NEEDED BEFORE WORK BEGINS

- A. Signed Contract or Purchase Order on file.
B. An accurate and current Certificate of Insurance on file listing Aristeo Construction or Aristeo Installation as defined in the Subcontract as the certificate holder, and Aristeo Construction /Aristeo Installation all applicable additional insured, and referencing the correct policies/limits (as noted on Exhibit B). This certificate must be received in this office prior to work beginning on site - no exceptions.
C. It is mandatory that your General Liability plus Excess (Umbrella) Liability coverage be a minimum of \$2,000,000 or as specified by the Owner’s plans and specifications, please refer to Exhibit B for those requirements.
D. Aristeo requires a minimum of 30 days advance notice of policy cancellation.

PROCEDURES TO FOLLOW TO EXPEDITE PAYMENT PROCESS

- 1. Submit a preliminary Schedule of Values to the Project Manager for approval PRIOR to invoicing for the first time.
2. An accurate, current, and notarized Sworn Statement MUST be submitted with each month’s billing. This Sworn Statement should indicate all commitments and payments to your suppliers and subcontractors, along with appropriate waivers. If you desire to use “Paid In Full” for any subcontractor, supplier, etc. a “Full Unconditional” waiver of lien will be required. Additionally, payment of trade benefits and payroll taxes must also be indicated by the paid through date. Waivers must be submitted starting with the 2nd application for payment, reflecting the previous Sworn Statement commitments and payments.
3. Billings must be submitted to this office by the 20th of the month, projecting through month’s end. Please submit invoices with all required back-up to subap@aristeo.com.
A. For Toyota Project: billings to be submitted by the 15th of the month for work in place through the 20th. Invoices received late will be rejected.
4. All invoices must be clearly labeled with the Aristeo job number. This number is indicated on your contract or purchase order. If you are unsure or do not know the number, please contact the Project Manager or myself.
5. Billings should only reflect Work In Place and APPROVED Change Orders.
6. Any moneys requested which are associated with extra costs CANNOT be processed without a written and signed Change Order in place. All requests for additional costs are subject to Value Analysis from the Owner. Please understand, until Aristeo is in receipt of an Owner’s Change Order, there has been no adjustment to our billing to compensate for the additional work. Change Orders are not valid unless signed by an officer of Aristeo.
7. If the Project Manager or Owner changes your percentage complete, we will notify you so that you can adjust or re-submit your billing accordingly.
8. All billings must be submitted in AIA format, preferably on AIA documents G702 & G703 to subap@aristeo.com. If blank copies of AIA documents are necessary, please feel free to contact Jodi Pinsoneault, Job Cost Analyst, at (734) 427-9111. Refer to the subcontract cover page for the amount of retainage (%) to be held on all payment applications. If you have questions on filling out the AIA, please call Jodi Pinsoneault at 734-427-9111.
9. Invoices will not be processed until a signed Contract, Certificate of Insurance and a completed Supplier Diversity Worksheet are returned to Aristeo.

Initial _____



SUBCONTRACTOR / SUPPLIER ENVIRONMENTAL CHECKLIST

- Subcontractors/suppliers must comply with all relevant environmental legislation and regulations, and the consequences of non-compliance.
- Subcontractors/suppliers working with Aristeo Construction Company and/or its affiliated companies must comply with and ensure their employees, subcontractors/suppliers, or agents comply with the Aristeo Operating System (AOS) and Environmental Policy.
- Subcontractors/suppliers shall not allow discharge to drains and/or sewers without prior approval from Aristeo and the Owner.
- Subcontractors/suppliers must provide adequate spill/release prevention for bulk materials.
- Subcontractors/suppliers shall immediately notify Aristeo's Supervisor/Representative or the Owner of any spills, releases, or other environmental incidents.
- Subcontractors/suppliers shall immediately notify Aristeo supervision of any abnormal conditions found. Visibly discolored soils with a discernible odor, heavily stained concrete, or other environmental impacts must not be disturbed and brought to the attention of Aristeo supervision.
- Subcontractors/suppliers must properly label, store and dispose of all waste materials generated from their activities.
- Subcontractors/suppliers shall be required to prepare and maintain records pertaining to the work performed in accordance with the environmental regulatory requirements, including record retention.
- Subcontractors/suppliers shall ensure that all employees are properly trained on such things as the proper handling of materials and equipment, proper response to incidents involving their material, and general information relating to the AOS Environmental Requirements.
- Subcontractors/suppliers shall obtain, prior to commencing work, all the necessary environmental approvals or permits and present copies of such permits to Aristeo.
- Subcontractors/suppliers understand that Aristeo may interrupt the subcontractor/supplier activities that violate AOS policies and/or all legal requirements.



SUPPLIER DIVERSITY COMMITMENT WORKSHEET
Supplier Diversity Goals by Owner

Chrysler-10% MBE and 3% WBE
Ford-6% MBE, 2% WBE, 3% VBE
General Motors-8% MBE and WBE Combined
Toyota-5% MBE and 2% WBE
Other-6% MBE, WBE and VBE Combined

Subcontractor Name _____

Subcontract Number _____

Name of Diversity Supplier	Type	Nature of Work	Dollar Value
Total:			

Type = **MBE** (Minority Business Enterprise), **WBE** (Women Business Enterprise), **VBE** (Veteran Business Enterprise)

The minority companies listed above must be registered with a nationally recognized agency and a copy of their certificate must accompany this form.

(Print Name)

(Signature)

***This form must be submitted with your signed subcontract.
You will not receive payment until this document is returned to our office.***

*Aristeo Construction Company and our affiliates are committed to developing growth among small and disadvantaged businesses including minority, women and veteran-owned construction firms.
We thank you in advance for your commitment to help us meet our Supplier Diversity goals.*