

## EXHIBIT A

### CONTRACTOR'S INSURANCE AND BOND REQUIREMENTS OF SUBCONTRACTOR

This Exhibit (the “*Insurance and Bond Requirements*”) is attached as an Exhibit as part of the Contract Documents. In the event of conflict between any of the following Insurance and Bond Requirements and any provision in the Contract Documents, these requirements control, amend and supplement the conflicting provision in the Contract Documents. Subject to review and revision in writing by the Contractor from time to time, in the Contractor’s good faith judgment, the following insurance shall be maintained by the Subcontractor with coverage and limits of not less than those set forth below at all times during the term of the Agreement and thereafter as required.

#### 1. LIABILITY INSURANCE COVERAGE TO BE PROVIDED BY SUBCONTRACTOR

1.1 **Commercial General Liability.** The Subcontractor is to maintain commercial general liability (also referred to as CGL) insurance and, if necessary, commercial excess insurance, issued on an Occurrence Basis meeting at least the following specifications.

a. **Limits.** The limits of this insurance shall be no less than the following amounts:

- i \$1,000,000 Per Occurrence
- ii \$2,000,000 General Aggregate
- iii \$2,000,000 Products and Completed Operations Aggregate
- iv \$1,000,000 Personal and Advertising Injury

b. **Aggregate Limits.** A Designated Construction Project(s) General Aggregate Limit shall be provided on ISO form CG 25 03 05 09 or equivalent providing the same scope of coverage.

c. **Post-Completion Coverage.** The Subcontractor agrees to maintain Products-Completed Operations coverage with respect to the Work performed under the Agreement in identical coverage, form and amount, including required endorsements, for the full term of the Statute of Repose following the Date of Substantial Completion of the Work by the Subcontractor. The Subcontractor shall provide written representation to the Contractor stating the completion date of the Work.

d. **Form.** This insurance is to be issued on the most recent reasonably available and unmodified ISO form CG 00 01 or equivalent providing the same scope of coverage.

e. **Insured Contracts.** Coverage shall include but not be limited to liability assumed by the Subcontractor under the Contract Documents, including the tort liability of another assumed in a business contract, and shall include unmodified Separation of Insureds coverage.

f. **Additional Insureds.** Additional Insured status shall be provided in favor of the Contractor Parties on a combination of ISO forms CG 20 10 10 01 and CG 20 37 10 01 or equivalent providing the same scope of coverage to the extent permitted by law. For purposes of this additional insured requirement, “*equivalent*” means coverage for liability arising out of the Subcontractor’s work performed under the Contract Documents, including coverage for the negligence or fault of the Contractor and any other party required to be included by the Contract Documents as to bodily injury or death of any employee or agent of the Subcontractor or the Subcontractor’s subcontractor, including on-going and completed operations.

g. **Contractual Liability – Railroads.** If any Work is to be performed within 50 feet of railroad property, a contractual liability-railroads ISO form CG 24 17 10 01 or equivalent providing the same scope of coverage shall be provided.

h. **Electronic Data Liability.** If any Work could cause damage to electronic data, this insurance is to include an Electronic Data Liability endorsement ISO form CG 04 37 or equivalent providing the same scope of coverage with coverage to the full limits of the policy(ies). ISO CG 04 71 and CG 04 72 or equivalent are not acceptable. The amount of coverage shall be no less than \$1,000,000.

i. **Personal Injury Contractual Liability.** The personal injury contractual liability exclusion shall be deleted.

j. **Primary and Noncontributory.** This insurance shall be endorsed to provide primary and noncontributing liability coverage on ISO form CG 20 01 04 13 or equivalent providing the same scope of coverage.

**k. Waiver of Right of Recovery and Subrogation.** To the extent permitted by law, the Subcontractor waives its rights of recovery from the Contractor Parties and shall cause this insurance to be endorsed to waive all rights of subrogation in favor of the Contractor Parties on ISO form CG 24 04 12 19 or CG 24 53 12 19 or equivalent providing the same scope of coverage. **THE FOREGOING WAIVER APPLIES EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF ANY ONE OR MORE OF THE CONTRACTOR PARTIES.**

**l. Prohibitions.** Prohibited exclusions/limitations and their equivalents include but are not limited to:

- i Amended Definition of Insured Contract Definition ISO CG 24 26 or equivalent providing the same scope of coverage;
- ii Any endorsement modifying the Employer's Liability exclusion;
- iii Classification or Business Description or equivalent;
- iv Continuous or Progressive Injury or Damage or equivalent;
- v Contractual Liability Limitation ISO CG 21 39 or equivalent;
- vi Damage to Work Performed by subcontractors On Your Behalf ISO CG 22 94 or CG 22 95 or equivalent;
- vii Earth Movement ISO CG 40 04, CG 40 05, CG 40 06, or Subsidence or equivalent;
- viii EIFS if the Work potentially includes such exposure;
- ix Explosion, Collapse and Underground Property Damage Hazard, ISO CG 21 42 or CG 21 43 or equivalent;
- x Habitational, residential, or multi-family operations, if the Work is to be performed on such a project;
- xi "Insured vs. Insured" except Named Insured vs. Named Insured;
- xii Limitation of Coverage to Designated Premises, Project or Operation ISO CG 21 44 or equivalent;
- xiii Overspray if the Work potentially includes that exposure;
- xiv Prior Injury or Prior Damage or Prior Work or equivalent;
- xv Punitive, exemplary or multiplied damages (coverage shall be provided for fines/penalties, punitive and multiplied damages where permitted by law);
- xvi Roofing Warranties, Exclusions or Limitations, including Open Roof or Torch Work or equivalent if the Work potentially includes such exposure;
- xvii Work Height or equivalent; and
- xviii Any other exclusion or limitation reasonably unacceptable to the Contractor.

**1.2 Business Auto Liability.** The Subcontractor is to maintain business auto insurance and, if necessary, commercial excess insurance, issued on an Occurrence Basis meeting at least the following specifications.

**a. Limits.** The limits of this insurance shall be no less than \$1,000,000 combined single limit for bodily injury and property damage per accident.

**b. Form.** This insurance is to be issued on the current edition of the ISO CA 00 01 or equivalent providing the same scope of coverage.

**c. Scope.** This insurance is to cover damages because of bodily injury or property damages caused by an accident and resulting from the ownership, maintenance or use (1) of any auto, including owned, hired and non-owned autos, and (2) of any mobile equipment subject to compulsory insurance or financial responsibility laws or other motor vehicle insurance laws.

**d. Additional Insureds.** Additional Insured status shall be provided in favor of the Contractor Parties on ISO form CA 20 48 10 13 or equivalent providing the same scope of coverage.

**e. Pollution Liability.** If the Work involves the transportation of hazardous materials, this insurance shall be endorsed to provide pollution liability on ISO CA 99 48 10 13, MCS-90, and the state equivalent form for the state in which the Work will be performed.

**f. Primary and Noncontributory.** This insurance shall be endorsed to provide primary and noncontributory liability coverage on ISO form CA 04 49 or equivalent providing the same scope of coverage.

**g. Waiver of Right of Recovery and Subrogation.** To the extent permitted by law, the Subcontractor waives its rights of recovery from the Contractor Parties and shall cause this insurance to be endorsed to waive all rights of subrogation in favor of the Contractor Parties on ISO form CA 04 44 10 13 or equivalent providing the same scope of coverage. **THE FOREGOING WAIVER APPLIES EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF ANY ONE OR MORE OF THE CONTRACTOR PARTIES.**

1.3 **Workers' Compensation and Employer's Liability.** The Subcontractor is to maintain workers' compensation and employer's liability and, if necessary, commercial excess insurance, insurance meeting at least the following specifications.

a. **Workers' Compensation Limits.** The limits of this insurance shall be no less than the statutory limits.

b. **Employer's Liability Limits.** The limits of this insurance shall be no less than \$1,000,000 each accident and disease.

c. **Scope.** This insurance is to cover liability arising out of the Subcontractor's employment of workers and anyone for whom the Subcontractor may be liable for workers' compensation claims. Workers' compensation insurance is required and no "alternative" form of insurance is permitted.

d. **Experience Modification.** The Subcontractor's workers' compensation modifier shall be no higher than 0.99. The Subcontractor must provide evidence of current modification by attachment of the workers' compensation policy page showing the experience modifier used in the premium calculation or a copy of the NCCI worksheets.

e. **Territory.** The state in which the Work is to be performed must be listed under Item 3.A. on the Information Page of the policy.

f. **Alternate Employer.** An alternate employer endorsement shall be included in favor of the Contractor.

g. **FELA, Jones Act, Maritime, and Defense Base Act.** If the Work will result in exposures under the Jones Act, the Federal Employer's Liability Act, Maritime law or the Defense Base Act, this insurance shall be extended to include insurance coverage mandated thereby.

h. **Monopolistic States/Stop Gap.** If the Work is to be performed in a monopolistic state or jurisdiction, the Subcontractor must participate in the appropriate state fund(s) and stop gap coverage must be provided.

i. **United States Longshoremen and Harbor Workers ("USL&H").** USL&H coverage shall be provided where such exposure exists listing the state(s) in which Work is to be performed.

j. **Waiver of Right of Recovery and Subrogation.** To the extent permitted by law, the Subcontractor waives its rights of recovery from the Contractor Parties and shall cause this insurance to be endorsed to waive all rights of subrogation in favor of the Contractor Parties on form WC 42 03 04. **THE FOREGOING WAIVER APPLIES EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF ANY ONE OR MORE OF THE CONTRACTOR PARTIES.**

k. **Prohibitions.** Employees leased through a Professional Employment Organization (also referred to as a PEO) are not permitted.

1.4 **Excess Liability.** If any of the required coverages are to be maintained by and through excess liability insurance, the Subcontractor is to maintain excess liability insurance meeting at least the following specifications.

a. **Limits.** The limits of this insurance shall be no less than \$5,000,000 each occurrence and annual aggregate.

b. **Scope.** This insurance shall be excess over and be no less broad than the above required general liability, auto liability, and employer's liability coverages and conditions described above, including but not limited to the required additional insured status, designated construction project(s) general aggregate, personal injury contractual liability, primary and noncontributory status, and prohibition of exclusions or limitations.

c. **Post-Completion Coverage.** Subcontractor agrees to maintain Excess Liability coverage with respect to the Work performed under the Agreement in identical coverage, form and amount, including Product-Completed Operations coverage and required endorsements, for the full term of the Statute of Repose following the Date of Substantial Completion of the Work by the Subcontractor.

d. **Concurrency.** Such coverage shall have the same inception date as the commercial general liability and employer's liability coverages.

e. **Defense Costs.** When applicable, this insurance is to include a duty to defend any insured and associated defense costs shall be outside of or in addition to the limits of liability.

f. **Drop Down Coverage.** Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits.

g. **Waiver of Right of Recovery and Subrogation.** To the extent permitted by law, the Subcontractor waives its rights of recovery from the Contractor Parties and shall cause this insurance to be endorsed to waive all rights of subrogation in favor of the Contractor Parties. **THE FOREGOING WAIVER APPLIES EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF ANY ONE OR MORE OF THE CONTRACTOR PARTIES.**

1.5 **Unmanned Aircraft (Drones).** The Subcontractor is required to maintain Unmanned Aircraft insurance meeting at least the following specifications if the Subcontractor's Work or any Work of any party for whom the Subcontractor is responsible includes the use of unmanned aircraft.

a. **Limits.** The limits of this insurance shall be no less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

b. **Scope.** This insurance shall cover all unmanned aircraft used by the Subcontractor or any party for whom the Subcontractor may be responsible and provide coverage for bodily injury, property damage, and personal injury liability.

c. **Additional Insureds.** Additional Insured status shall be provided in favor of the Contractor Parties.

d. **Primary and Noncontributory.** This insurance shall be endorsed to provide primary and noncontributing liability coverage in favor of the Contractor Parties.

e. **Waiver of Right of Recovery and Subrogation.** To the extent permitted by law, the Subcontractor waives its rights of recovery from the Contractor Parties and shall cause this insurance to be endorsed to waive all rights of subrogation in favor of the Contractor Parties. **THE FOREGOING WAIVER APPLIES EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF ANY ONE OR MORE OF THE CONTRACTOR PARTIES.**

1.6 **Riggers Legal Liability.** The Subcontractor is required to maintain Riggers Legal Liability insurance meeting at least the following specifications if the Subcontractor's Work or any Work of any party for whom the Subcontractor is responsible includes rigging operations.

a. **Limits.** The limits of this insurance shall be no less than \$1,000,000 each project and \$1,000,000 catastrophe limit.

b. **Form.** Coverage shall be provided on a direct damage basis and shall include or be endorsed to include (i) building and structures coverage when in connection with any part of the insureds rigging, assembling or dismantling, and (ii) valuation of property in the care, custody and control of the insured shall be replacement cost.

c. **Scope.** This insurance shall cover all rigging liability of the Subcontractor or any party for whom the Subcontractor may be responsible that lift, set in place, or move tangible property of others that is in the Subcontractor's or its subcontractor's care, custody or control when operating in the capacity of a rigging contractor.

d. **Additional Insureds.** Additional Insured status shall be provided in favor of the Contractor Parties.

e. **Primary and Noncontributory.** This insurance shall be endorsed to provide primary and noncontributing liability coverage in favor of the Contractor Parties.

f. **Waiver of Right of Recovery and Subrogation.** To the extent permitted by law, the Subcontractor waives its rights of recovery from the Contractor Parties and shall cause this insurance to be endorsed to waive all rights of subrogation in favor of the Contractor Parties. **THE FOREGOING WAIVER APPLIES EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF ANY ONE OR MORE OF THE CONTRACTOR PARTIES.**

1.7 **Professional Liability.** The Subcontractor is required to maintain Professional Liability insurance meeting at least the following specifications if the Subcontractor's Work or any Work of any party for whom the Subcontractor is responsible includes any design, engineering, consulting, construction management or professional services.

a. **Limits.** The limits of this insurance shall be no less than \$2,000,000 each claim and \$4,000,000 annual aggregate. If a combined Pollution Liability and Professional Liability policy is utilized, the limits shall be \$3,000,000 Each Loss and Aggregate.

b. **Scope.** Such insurance shall cover all professional services rendered by the Subcontractor and its vicarious liability arising out of engagement of subcontractors under the Agreement, including but not limited to design or design/build services, consulting or construction management. A professional liability endorsement to a general liability policy is not acceptable.

c. **Retroactive Date.** Any retroactive date must be effective prior to beginning of services for the Contractor.

d. **Waiver of Right of Recovery and Subrogation.** To the extent permitted by law, the Subcontractor waives its rights of recovery from the Contractor Parties and shall cause this insurance to be endorsed to waive all rights of subrogation in favor of the Contractor Parties. **THE FOREGOING WAIVER APPLIES EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF ANY ONE OR MORE OF THE CONTRACTOR PARTIES.**

e. **Prohibitions.** This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from:

- i Bodily injury or property damage where coverage is provided on behalf of design professionals or design/build contractors;
- ii Contractual liability or any other similar exclusion which would serve to exclude coverage for liability assumed in connection with the underlying agreement;
- iii Construction delays;
- iv Construction management exclusions (if applicable);
- v Cost estimating;
- vi Cost to repair or replace subcontractors faulty work\*;
- vii Design build;
- viii EFIS if the Work potentially includes such exposure;
- ix Exception to contractual liability exclusion for liability that would exist in the absence of contract or agreement, warranty or guarantee;
- x Financial loss or economic damages arising from construction means, methods, or temporary works\*;
- xi Habitational, residential, or multi-family operations, if the Work is to be performed on such a project;
- xii Lead, silica, mold and/or microbial matter and/or fungus and/or biological substance, asbestos or other pollution or environmental conditions;
- xiii Natural Resource Damages;
- xiv Naturally occurring substances;
- xv Punitive, exemplary or multiplied damages (coverage shall be provided for fines/penalties, punitive and multiplied damages where permitted by law);
- xvi Property damage to the work performed;
- xvii Safety\*;
- xviii Subcontractor actions against design-build;
- xix Technology-related.

\*These exclusions are acceptable where an exception applies for damages resulting from negligent acts, errors, or omissions in the provision of professional services.

f. **Term.** The Subcontractor agrees to maintain Professional Liability insurance with respect to the Work performed under the Agreement in identical coverage, form and amount, including required endorsements for the full term of the Statute of Repose beyond termination of the Agreement. The purchase of an extended discovery period or an extended reporting period on a Claims-Made policy will not be sufficient to meet the terms of this provision.

1.8 **Pollution Liability.** The Subcontractor is required to maintain Pollution Liability insurance meeting at least the following specifications if the Subcontractor's Work or any Work of any party for whom the Subcontractor is responsible involves any introduction, use, abatement, handling, transporting, clean up, or disposal of hazardous materials or could potentially cause water intrusion. Coverage extensions to the General Liability insurance policy without a separate insurance agreement for the Contractors Pollution Liability insurance will not fulfill this requirement.

a. **Limits.** The limits of this insurance shall be no less than \$2,000,000 each claim and \$4,000,000 annual aggregate. If a combined Pollution Liability and Professional Liability policy is utilized, the limits shall be \$3,000,000 Each Loss and Aggregate.

b. **Form.** This insurance shall be provided on an occurrence basis and shall include a separation of insureds provision.

c. **Scope.** The policy must provide coverage, including defense costs for losses arising from or in any way related to sudden and/or gradual pollution conditions which arise from the full scope of the subcontractor's operations (on-going and completed) as described within the scope of Work for the Agreement, including:

- i Bodily injury and property damage (including restoration or replacement costs);
- ii Claims arising from owned and non-owned disposal sites utilized in the performance of the agreement;
- iii Contractual liability;
- iv Diminution of value and natural resources damages;
- v Loss arising from pollutants including but not limited to fungus, bacteria, biological substances, mold, microbial matter, asbestos, lead, silica and contaminated drywall
- vi Pollution conditions that arise from or in connection with the transportation, by or on behalf of the Subcontractor, of any waste or waste materials off or away from the project site; and
- vii Third party liability for bodily injury, property damage, clean up expenses, and defense arising from the work.

d. **Additional Insureds.** Additional Insureds status shall be provided in favor of the Contractor Parties.

e. **Insured Contracts.** Coverage shall include but not be limited to liability assumed by the Subcontractor under the Contract Documents, including the tort liability of another assumed in a business contract.

f. **Primary and Noncontributory.** This insurance shall be endorsed to provide primary and noncontributing liability coverage in favor of the Contractor Parties.

g. **Waiver of Right of Recovery and Subrogation.** To the extent permitted by law, the Subcontractor waives its rights of recovery from the Contractor Parties and shall cause this insurance to be endorsed to waive all rights of subrogation in favor of the Contractor Parties. **THE FOREGOING WAIVER APPLIES EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF ANY ONE OR MORE OF THE CONTRACTOR PARTIES.**

h. **Prohibitions.** This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from:

- i Claims arising from owned and non-owned disposal site utilized in the performance of the Work;
- ii Contractual liability or any other similar exclusion which would serve to exclude coverage for liability assumed by the Subcontractor in connection with the underlying agreement;
- iii Damage to Work performed by the Subcontractor or the Subcontractor's subcontractors;
- iv Diminution of value;
- v EIFS;
- vi Environmental services/remediation;
- vii Faulty workmanship as it relates to clean-up costs;
- viii Insured vs. Insured actions (exclusion for claims made between insureds within the same economic family are acceptable);
- ix Impaired property that has not been physically injured;
- x Loss arising from pollutants including but not limited to lead, silica, mold, microbial matter, fungus biological substance, asbestos, contaminated drywall or other pollution or environmental conditions except exclusion of a communicable disease event from pollution and biological conditions is acceptable;
- xi Materials supplied or handled by the named insured. However, exclusions for the sale and manufacture of products are allowed. Exclusionary language pertaining to materials supplied by the insured must be approved in writing by the certificate holder;
- xii Naturally occurring substances;
- xiii Natural Resource Damages;
- xiv Pollution condition that arise from or in connection with the transportation, by or on behalf of the Subcontractor, of any waster or water materials off or away from the project site;
- xv Property damage to the Work performed by the subcontractor;
- xvi Punitive, exemplary or multiplied damages (coverage shall be provided for fines/penalties, punitive and multiplied damages where permitted by law);
- xvii Third party liability for bodily injury, property damage, clean-up expenses, and/or defense costs arising from the Work;
- xviii Waste brokering, waste site selection, or arranging for disposal (if applicable); and
- xix Work performed by sub-subcontractors.

i. **Term.** Completed operations coverage shall be maintained for the period of the Statute of Repose after the completion of Work. The extended reporting period on a claims-made based policy does not fulfill this requirement. The Subcontractor's Pollution Liability insurance policies insuring a specific job shall have completed operations coverage for at least the duration of the Work plus ten (10) years.

## 2. BONDING TO BE PROVIDED BY SUBCONTRACTOR

2.1 The Subcontractor  is  is not required to arrange and furnish, at the Subcontractor's sole cost and expense, separate performance and payment bonds, each for the full amount of the Agreement guaranteeing the faithful performance of all of the provisions of the Contract Documents as well as payment to all persons for labor and material used in the performance of the Contract Documents. The bonds shall be executed by a surety company acceptable to the Contractor, on a form acceptable to the Contractor, and shall become a part of the Contract Documents. The Contractor may withhold payments on account until such time as said bonds have been furnished and accepted. No change, alteration or modification in the terms and conditions of the Agreement, or in the terms or manner of payment shall in any way exonerate or release, in whole or in part, any surety on any bond furnished on behalf of the Subcontractor. The cost of the bonds is included in the amount of the Agreement. Any additions to the Agreement occasioned by Change Orders will include any additional bond premiums. For private projects in Texas, the payment bond shall conform to the requirements of Sec. 53.201, et seq; shall be endorsed with the Contractor's approval; and shall be recorded per these statutes. For design-build projects, the payment and performance bonds need only cover the construction portion of the project.

**NOTE: Checkbox above**

## 3. GENERAL INSURANCE REQUIREMENTS

3.1 **Definitions.** For purposes of this Exhibit:

a. "**Subcontractor**" means (a) the Subcontractor as defined by the Contract Documents and (b) all of the Subcontractor's subcontractors.

b. "**ISO**" means Insurance Services Office.

c. "**Contractor Parties**" means (a) the Contractor as defined by the Contract Documents, (b) any lender whose loan is secured by a lien against the Work, (c) their respective shareholders, members, and partners, (d) any directors, officers, and employees of such persons or entities, and (e) others as required by the Construction Documents.

d. "**subcontractors**" means subcontractors of all tiers.

e. "**Work**" means the performance of any work at the jobsite by or for the Subcontractor.

3.2 **Deductibles And Retentions.**

a. If the Subcontractor elects to self-insure or to maintain liability insurance required by this Exhibit subject to deductibles and/or retentions, then the Contractor Parties and the Subcontractor shall maintain all rights and obligations between themselves as if the Subcontractor fully maintained the insurance required in this Exhibit with a commercial insurer including but not limited to requirements under sections titled Additional Insureds, Primary and Noncontributory, Waiver of Rights of Recovery and Subrogation, General Insurance Requirements and any other extensions of coverage required in this Exhibit. The Subcontractor shall pay from its assets the costs, damages, claims, losses and liabilities, including attorney's fees and necessary litigation expenses at least to the extent that an insurance company would have been obligated to pay those amounts if the Subcontractor had maintained the insurance pursuant to this Exhibit without said deductible or self-insured retention. All liability deductibles and retentions shall be paid by, assumed by, for the account of, and at the sole risk of the Subcontractor. The Subcontractor shall not be reimbursed for same by the Contractor Parties or other additional insureds. The Contractor may require the Subcontractor to post security or obtain gap coverage for large deductibles.

b. Subcontractor shall be responsible for its proportionate share of any builder's risk deductible.

3.3 **Forms.** If the forms of policies, endorsements, certificates or evidence of insurance required by this Exhibit are superseded or discontinued, the Contractor will have the right to require other equivalent forms. Any policy or endorsement form other than a form specified in this Exhibit must be approved in advance by the Contractor.

### 3.4 Insurance Requirements Of Contractor's Subcontractors.

a. Insurance similar to that required of the Subcontractor shall be provided by all of its subcontractors (or provided by the Subcontractor on behalf of its subcontractors) to cover operations performed under any subcontract agreement. The Subcontractor shall be held responsible for any modification in these insurance requirements as they apply to subcontractors. The Subcontractor shall maintain certificates of insurance from all of its subcontractors containing provisions similar to those listed in this Exhibit (modified to recognize that the certificate is from the subcontractor) enumerating, among other things, the waivers of subrogation, additional insured status, and primary liability as required in this Exhibit, and make them available to the Contractor upon request.

b. The Subcontractor is fully responsible for loss and damage to its property on the site, including tools and equipment, and shall take necessary precautions to prevent damage to or vandalism, theft, burglary, pilferage and unexplained disappearance of property. Any insurance covering the Subcontractor's or its subcontractor's property shall be the Subcontractor's and its subcontractor's sole and complete means or recovery for any such loss. To the extent any loss is not covered by said insurance or subject to any deductible or co-insurance, the Subcontractor and its subcontractors shall not be reimbursed for same. It is expressly agreed that the Subcontractor hereby waives, and shall cause its subcontractors to waive, any claim for damage or loss to said property in favor of the Contractor Parties.

3.5 **Limits.** "Limits" set out in these specifications shall be no less than the dollar amount of insured coverage for the risk, cause of loss or peril specified. If the Subcontractor maintains greater limits, then these specifications shall not limit the amount of recovery available to the Contractor Parties and the limits specified above are increased to the greater limits. No representation is made that the insurance requirements of this Exhibit are sufficient to cover the obligations of the Subcontractor under the Contract Documents.

3.6 **Notice Of Cancellation, Material Change And Non-Renewal.** The Subcontractor shall not cause any insurance to be cancelled nor permit any insurance to lapse during the term of the Agreement or as required in the Contract Documents. All insurance required in this Exhibit shall be endorsed to provide a 30 day notice of cancellation, material change and non-renewal to the Contractor to the extent commercially available. If this endorsement cannot be provided, the Subcontractor will immediately provide written notice to the Contractor should any of the insurance policies required in this Exhibit be cancelled, limited in scope, or not renewed upon expiration. Said notice must be provided no later than thirty (30) days prior (except 10 days for nonpayment of premium) to any such action being taken.

3.7 **Policies.** All policies held by the Subcontractor and required in this Exhibit must be written through insurance companies authorized to do business in the State in which the Work is to be performed and rated no less than A-: VII in the most current edition of A. M. Best's Key Rating Guide at all times insurance is required hereunder.

3.8 **Primary And Noncontributory.** Requirements for primary and noncontributory insurance means that it is the specific intent of the parties to the Agreement that all insurance required in this Exhibit shall be primary to and shall seek no contribution from any other insurance (primary, umbrella, contingent or excess) maintained by the Contractor Parties, with the Contractor Parties' insurance being excess, secondary and noncontributing.

3.9 **Waiver Of Rights Of Recovery And Subrogation.** Notwithstanding anything to the contrary in the Contract Documents or in the Subcontractor's contract with its subcontractors and to the extent permitted by law, the Subcontractor hereby waives, and shall cause its subcontractors to waive, its and their respective rights of recovery from the Contractor Parties for all claims (a) that are covered by any insurance maintained by the Subcontractor or its subcontractors, (b) would have been covered by any insurance required to be maintained by the Subcontractor or its subcontractors under this Exhibit, or (c) that constitute any retained, self-insured or uninsured risk of the Subcontractor or its subcontractors. All insurance policies required to be provided by the Subcontractor pursuant to this Exhibit shall include a waiver of subrogation and any other rights of recovery by the insurer in favor of the Contractor Parties. The provisions of this paragraph shall be deemed incorporated into each subcontract to the extent necessary to achieve the result intended. **THESE WAIVERS SHALL BE EFFECTIVE AS TO A PERSON OR ENTITY (i) EVEN THOUGH THAT PERSON OR ENTITY WOULD OTHERWISE HAVE A DUTY OF INDEMNIFICATION, CONTRACTUAL OR OTHERWISE, (ii) EVEN THOUGH THAT PERSON OR ENTITY DID NOT PAY THE INSURANCE PREMIUM DIRECTLY OR INDIRECTLY, (iii) WHETHER OR NOT THE PERSON OR ENTITY HAD AN INSURABLE INTEREST IN THE DAMAGED PROPERTY AND (iv) EVEN IF THE PERSON OR ENTITY WAS AT FAULT, NEGLIGENT, OR LIABLE UNDER STRICT LIABILITY.**

3.10 **Evidence Of Insurance.** The Subcontractor is to provide the Contractor with evidence of insurance prior to entry by the Subcontractor on the property and thereafter is to provide the Contractor refreshed evidence of continued insurance after the expiration of the current policies prior to the expiration of the current policies.



- a. Liability insurance must be evidenced on an ACORD Form 25 Certificate of Liability Insurance which shall specify:
- i The Contractor as certificate holder at the Contractor's mailing address;
  - ii Insured's name, which must match that on the Contract Documents;
  - iii Insurance companies producing each coverage and the policy number and policy date of each coverage;
  - iv Producer of the certificate with correct address and phone number and have the signature of the authorized representative of the producer;
  - v Additional Insured status in favor of the Contractor Parties on forms required in this Exhibit on General Liability, Auto Liability, Excess Liability and, when required in this Exhibit, Unmanned Aircraft Liability, Riggers Liability, and Pollution Liability;
  - vi Unmanned Aircraft Liability when required in this Exhibit and Excess Liability;
  - vii Designated Construction Project(s) General Aggregate Limit on General Liability and Excess Liability;
  - viii Electronic Data Liability on General Liability;
  - ix Personal Injury Contractual Liability on General Liability and Excess Liability;
  - x Primary and non-contributory status on General Liability, Auto Liability and Excess Liability and when required in this Exhibit, Pollution Liability;
  - xi Pollution Liability when required in this Exhibit;
  - xii Professional Liability when required in this Exhibit;
  - xiii Riggers Liability when required in this Exhibit;
  - xiv Waivers of subrogation on all coverages;
  - xv Amount of any deductible or self-insured retention in excess of \$25,000;
  - xvi 30 Day Notice of Cancellation on all coverages; and
  - xvii Copies of the General Liability Additional Insured endorsement(s) and the General Liability and Excess Liability Schedule of Forms and Endorsements pages shall also be provided.

b. Builder Risk insurance must be evidence on an ACORD 28 Evidence of Commercial Property Insurance form.

c. If requested in writing by the Contractor, the Subcontractor will provide to the Contractor a certified copy of any or all insurance policies required in this Exhibit including endorsements within ten (10) days of any such request. Commencement of Work without provision of the required certificate of insurance, evidence of insurance and/or required endorsements, or without compliance with any other provision of this Exhibit, shall not constitute a waiver by any Contractor Party of any rights. The Contractor shall have the right, but not the obligation, to prohibit the Subcontractor or any subcontractor from performing any Work until such certificate of insurance, evidence of insurance and/or required endorsements are received and approved by the Contractor.

#### 4. MISCELLANEOUS

4.1 **Release And Waiver.** The Subcontractor hereby waives all rights of recovery from and releases, and shall cause its subcontractors to release, the Contractor Parties from any and all claims or causes of action whatsoever which the Subcontractor and/or its subcontractors might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required in this Exhibit or not, or which should have been covered by insurance required in this Exhibit, including the deductible and/or uninsured portion thereof, maintained and/or required to be maintained by the Subcontractor and/or its subcontractors pursuant to this Exhibit. **THE FOREGOING RELEASE AND WAIVER APPLY EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF ANY ONE OR MORE OF THE CONTRACTOR PARTIES.**

4.2 **No Waiver.** Failure of any Contractor Party to demand such certificate or other evidence of full compliance with these insurance requirements or failure of any Contractor Party to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Subcontractor's obligation to maintain such insurance.

4.3 **Suspension.** The Contractor shall have the right, but not the obligation, of suspending the Subcontractor's services, without an increase in the sum payable by the Contractor to the Subcontractor due to such suspension, until such certificates or other evidence that the required insurance has been placed in compliance with these requirements is received and approved by the Contractor.

4.4 **Post Completion Coverage.** With respect to the insurance to be maintained after final payment to the Subcontractor, an additional certificate(s) evidencing such coverage shall be provided to the Contractor with final application for payment if prior certificate has expired, and thereafter upon renewal or replacement of such insurance until the expiration of the time period for which such insurance must be maintained.

**4.5 Compliance With Laws.** If any insurance requirements are deemed to violate any law, statute or ordinance, the insurance requirements shall be reformed to provide the maximum amount of protection to the Contractor as allowed under the law.

**4.6 Use Of The Owners Equipment.** The Subcontractor, its agents, employees, subcontractors or suppliers shall use the Contractor's equipment only with express written permission of the Contractor's designated representative and in accordance with the Contractor's terms and conditions for such use. If the Subcontractor or any of its agents, employees, subcontractors or suppliers utilize any of the Contractor's equipment for any purpose, including machinery, tools, scaffolding, hoists, lifts or similar items owned, leased or under the control of the Contractor, the Subcontractor shall defend, indemnify and be liable to the Contractor Parties for any and all loss or damage which may arise from such use. **THE FOREGOING INDEMNITY APPLIES EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF THE CONTRACTOR PARTIES.**

**4.7 Contractor Insurance Representations To Owner Parties.**

a. It is expressly understood and agreed that the insurance coverages required in this Exhibit (a) represent the Contractor Parties' minimum requirements and are not to be construed to void or limit the Subcontractor's indemnity obligations as contained in the Contract Documents nor represent in any manner a determination of the insurance coverages the Subcontractor should or should not maintain for its own protection; and (b) are being, or have been, obtained by the Subcontractor in support of the Subcontractor's liability and indemnity obligations under the Contract Documents. Irrespective of the requirements as to insurance to be carried as provided for in this Exhibit, the insolvency, bankruptcy or failure of any insurance company carrying insurance of the Subcontractor, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate or waive any of the provisions of this Exhibit.

b. Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under, the Contract Documents. If the Subcontractor shall fail to remedy such breach within five (5) business days after notice by the Contractor, the Subcontractor will be liable for any and all costs, liabilities, damages and penalties resulting to the Contractor Parties from such breach, unless a written waiver of the specific insurance requirement(s) is provided to the Subcontractor by the Contractor. In the event of any failure by the Subcontractor to comply with the provisions of this Exhibit, the Contractor may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to the Subcontractor, purchase such insurance, at the Subcontractor's expense, provided that the Contractor shall have no obligation to do so and if the Contractor shall do so, the Subcontractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

**4.8 Survival.** This Exhibit is an independent contract provision and shall survive the completion of the Work or termination or expiration of the Contract Documents.