

THIS AGREEMENT made this ____ day of _____, A.D., _____

(Contract Number)

BETWEEN Fillmore Construction Management Inc.

(hereinafter known as the "Contractor")

AND

(hereinafter known as the "Subcontractor")

THE CONTRACTOR has entered into an agreement (the "Prime Contract") dated the ____ day of _____, _____
with

(the "Owner")

for the construction of _____
(the "Project")

under which _____ has been appointed as the Consultant
(the "Consultant")

A. The Prime Contract includes the work to be performed under this Agreement (the "Subcontract").

B. The Subcontractor has agreed with the Contractor to be bound by all of the terms and conditions of the Prime Contract including the plans, specifications, general and supplementary conditions and addenda for the Project.

The Contractor and the Subcontractor agree as follows:

ARTICLE 1 - The Work

The Subcontractor shall furnish all necessary labour, supervision, materials, tools and equipment necessary to construct, install to complete the portion(s) of the Project, as further detailed in Appendix A (the "Work") for the Subcontract Price identified in Article 2 and in accordance with the Contractor's schedule (the "Schedule").

ARTICLE 2 - Subcontract Price

The Subcontract Price is \$ _____ dollars and federal and/or provincial value-added and/or sales taxes in effect at the time of the Subcontractor tender closing, in Canadian funds (the "Subcontract Price") for the performance of this Subcontract., and the Subcontract Price shall be subject to adjustment by the amount of any increase or decrease in cost to the Subcontractor due to changes to such included taxes arising after the time of bid closing. The Subcontract amount will be adjusted based on approved quantities and unit prices for all unit price items.

ARTICLE 3 - Contract Documents

The Subcontractor agrees to be bound by all of the terms and conditions of the Prime Contract, including all plans, specifications, general and supplementary conditions and addenda, and in interpreting the Subcontractor's obligations under the Prime Contract, terms denoting "Owner" will be read as "Contractor" and the terms denoting "Contractor" will be read as the term "Subcontractor". The terms and conditions of the Prime Contract (including without limitation any guarantees or warranties thereunder as to performance and/or quality of the Work) and the plans, specifications, general and supplementary conditions and addenda of the Prime Contract, and the Subcontract Terms and Conditions and any appendices attached, and the Schedule as herein provided for shall form part of this Subcontract and the whole shall constitute the entire Subcontract between the parties and the same are hereinafter referred to as the "Contract Documents"

ARTICLE 4 - Schedule

The Subcontractor will begin the Work upon award of the Subcontract and will perform its obligations hereunder to complete the Work in accordance with the Schedule and so as not to interfere with or delay the work of the Contractor or any other subcontractor. The Contractor may amend the Schedule in consultation with the Subcontractor and the Subcontractor agrees it shall perform the Work in accordance with such revised Schedule, including any changes to the order and sequencing of the Work. If the Subcontractor fails to perform in accordance with the Schedule as may be amended from time to time, and by reason thereof, the Contractor becomes liable for damages or suffers losses, or incurs additional costs because of non-performance of the Subcontractor, the Subcontractor shall be liable to the Contractor for such damages, losses and costs.

ARTICLE 5 - Notices and Contractor's Representative

Addresses for notices for the parties under this Subcontract are:

Contractor: 9114 34A Avenue, Edmonton, AB T6E 5P4

Contractor's Representative: _____

Subcontractor's Address: _____

The Subcontractor must promptly notify the Contractor in writing of any claim for adjusting the Subcontract Price and/or extending the time to complete the Work. This notice should be given within the earlier of (a) five (5) business days after the Subcontractor became aware or should have become aware of the event or circumstance leading to the claim, or (b) two (2) business days before the expiration of the notice period set by the Prime Contract for the Contractor's similar claims. The Subcontractor should issue this written notice before undertaking any work related to the claim, including detailed particulars of the claim's basis, the sought relief, and delivery to the Contractor's Representative. Strict compliance with these provisions is a prerequisite for any claim for adjusting the Subcontract Price or extending the time to complete the Work. The Subcontractor acknowledges that failure to adhere may harm the Contractor's ability to mitigate or seek relief under the Prime Contract, assuming the risk of non-compliance.

If the Subcontractor notifies a claim resulting from the Owner's acts or omissions or those for whom it is responsible, the Subcontractor's entitlement to relief, such as adjusting the Subcontract Price or extending time, depends on the Contractor obtaining such relief under the Prime Contract.

The parties hereto have executed this Agreement including the Terms and Conditions annexed hereto, on the date stated on the first page.

Fillmore Construction Management Inc.

 CONTRACTOR (Legal Name) SUBCONTRACTOR (Legal Name)

 (Authorized Signature) (Authorized Signature)

 (Name and Title of Authorized Signatory) (Name and Title of Authorized Signatory)

Scope of Work

Inclusions are not limited to:

Exclusions are limited to:

**FILLMORE CONSTRUCTION – STANDARD TERMS AND CONDITIONS FOR:
SUBCONTRACT AGREEMENT**

This Subcontract between Fillmore Construction Management Inc. (“FCMI”) as the Contractor, and the Subcontractor will be governed by the following Terms and Conditions. Current Liability Insurance and Worker’s Compensation clearance for the province in which the site is located and a duly executed copy of the Subcontract must be submitted before any physical work is started on the site.

SC 1 – PRECEDENCE

- 1.1 In the event of any discrepancy between the various documents constituting the Contract Documents, the document imposing the higher or more restrictive standard upon the Subcontractor shall prevail.

SC 2 – REGULATIONS, LAWS, PERMITS, ETC

- 2.1 The laws of the jurisdiction where the Project is located shall govern the Work. In the performance of the Work, the Subcontractor shall comply with all laws, statutes, regulations, standards and codes which are or come into force during the performance of the Work. Unless otherwise stipulated the Contractor shall obtain the building permit. The Subcontractor shall obtain all other permits, licenses and certificates relative to the Work.

SC 3 – DEFINITIONS

- 3.1 “Contract Documents” has the meaning set out in SC4.2;
- 3.2 “FCMI” refers to Fillmore Construction Management Inc.;
- 3.3 “Prime Contract” has the meaning set out in SC4.2
- 3.4 “Project” means the buildings, facilities or other improvements for which FCMI is to perform Work pursuant to the plans and specifications and other documents comprising the Prime Contract;
- 3.5 “Project Schedule” means the schedule prepared by or on behalf of FCMI for the performance of FCMI’s scope of work for the Project pursuant to the Prime Contract, including the Subcontractor’s scope of Work, which schedule includes the start and completion dates of the scope of Work pursuant to the Prime Contract, and the start and completion dates of the Subcontractor’s scope of Work, which schedule may be revised by FCMI from time to time during the course of the Subcontractor’s Work;
- 3.6 “Site” means the physical place or places where the construction Work called for in the Subcontract will remain when work on it has been completed. It includes other adjacent or nearby property used by the Subcontractor in such construction which can reasonably be said to be included in the Site;
- 3.7 “Sub-subcontractor” means any person or entity, including material suppliers, equipment suppliers and providers of labour, who have a direct or indirect contract with the Subcontractor or another Sub-subcontractor in connection with any portion of the Work;
- 3.8 “Work” means to furnish all labour, services, materials, equipment, tools, supervision, supplies, permits, and all other things reasonably necessary for and incidental to the construction and completion of the scope of work described in this Subcontract, including any design or engineering services.

SC 4 – SCOPE OF SUBCONTRACT WORK

- 4.1 FCMI employs the Subcontractor, who has represented to FCMI that he/she/it possesses the knowledge, skills and financial stability necessary to perform the services provided for under this Subcontract Agreement, as an independent contractor, to perform all Work in a good and workmanlike manner and in strict accordance with and reasonably inferable from the Contract Documents (as defined in SC 4.2).
- 4.2 The Subcontractor agrees to be bound by all of the terms and conditions of the Construction Agreement between the Owner and FCMI (“the Prime Contract”), including all plans, specifications, general and supplementary conditions and addenda thereto, and in construing the Subcontractors obligations under the Prime Contract, the terms denoting “Owner” will be read as “Contractor” and the terms denoting “Contractor” will be read as the term “Subcontractor”. The terms and conditions of the Prime Contract (including without limitation any guarantees or warranties thereunder as to performance and quality of the Work) and the plans, specifications, general and supplementary conditions and addenda of the Prime Contract, and the Subcontract Terms and Conditions and any appendices attached hereto, and the whole shall constitute the entire Subcontract between the parties and the same are hereinafter referred to as the “Contract Documents”.
- 4.3 Where not fully or clearly defined the Subcontractor’s scope of work will include requirements for their scope of Work per the Alberta Construction Trade Definitions, most recent published version at time of contract, as a minimum. A copy of this document will be made available to the Subcontractor upon request.
- 4.4 The Subcontractor affirms that their scope of Work includes for any and all cost escalations that could occur regardless of schedule for work completion, delays or any other cause.
- 4.5 Should changes be made to FCMI’s Scope of Work under the Prime Contract, the Subcontractor’s Scope of Work under this Subcontract shall be reduced, cancelled or otherwise changed at the sole discretion of FCMI.
- 4.6 The Subcontractor has reviewed all of the Contract Documents and has included all Work that would normally be completed by this Subcontractor regardless of where in the Contract Documents the Work is indicated.
- 4.7 Where the Contract Documents indicate a scope of work is to be completed by the Contractor, the Subcontractor confirms they have reviewed these requirements and included in their scope of work any requirements that directly pertain to the scope of work awarded to the Subcontractor.

SC 5 – INVESTIGATION BY SUBCONTRACTOR

- 5.1 The Subcontractor has carefully examined and understands this Subcontract and the Contract documents and represents that it has made a thorough examination of the nature, locality and site of the Work and has allowed for all conditions and difficulties under which it is to be performed. The Subcontractor has reviewed all pages and sections of the Project documents fully to ensure they understand their full scope of work. The Subcontractor has taken such conditions into account in arriving at the Subcontract Amount. No additional compensation or extension of time shall be allowed because of concealed or other conditions about the project which should have reasonably been considered in the sole opinion of FCMI.

SC 6 – RIGHT TO SUBCONTRACT PARTS OF SCOPE OF WORK

- 6.1 With the prior written approval of FCMI, the Subcontractor may enter into an agreement with a person or a legal entity to perform any portion of the Subcontractor's Scope of Work. The Subcontractor will provide a list to FCMI of Sub-subcontractors they propose to use and for which components of the Scope of Work. The Subcontractor shall not retain as a Sub-subcontractor any person or legal entity without the prior written approval of FCMI, which approval may be withheld at the sole discretion of FCMI. The approval by FCMI of a Sub-subcontractor will not relieve the Subcontractor of its obligations under this Subcontract.
- 6.2 The Subcontractor agrees to bind every Sub-subcontractor, including material suppliers, and require every Sub-subcontractor to bind its Sub-subcontractors, including material suppliers, to all provisions to this Subcontract as they apply to the Sub-subcontractor's portion of the Scope of Work.
- 6.3 The Subcontractor shall be responsible for the management of the Sub-subcontractors and the performance of the Work and for any liability resulting therefrom.

SC 7 – TEMPORARY WORKS AND DELEGATED DESIGN

- 7.1 The Subcontractor is responsible to ensure all components of a delegated design scope of work or engineered temporary works that fall within the Subcontractors scope of Work are included or clearly excluded at time of tender. If additional work is required due to this Subcontractor's delegated design and/or temporary works (including without limitation, scaffolding, shoring, temporary supports, hoarding, trench boxes, or other conditions) and it is not specifically excluded then the Subcontractor will be responsible to complete the work. The Subcontractor will ensure any designs or approvals required for the design of these items are stamped by a competent professional engineer or other authority as required by FCMI and/or the Project Documents.

SC 8 – PROJECT CONSTRUCTION SCHEDULE

- 8.1 The Subcontractor shall provide FCMI, as and when requested, any scheduling information in relation to the Subcontractor's Work.
- 8.2 FCMI shall submit to the Subcontractor the Project Schedule. If the Subcontractor has any concerns with the Project Schedule, the subcontractor shall provide to FCMI written comments within ten calendar (10) days of the award of this subcontract. FCMI will consider, but not necessarily make, revisions to the Project Schedule. If the Subcontractor does not provide comments within ten calendar (10) days of the award of this subcontract, the Subcontractor agrees that it shall complete its scope of work as required by the Project Schedule.
- 8.3 Time is of the essence in the performance of this Subcontract. The Subcontractor shall proceed with its scope of work in a prompt and diligent manner, and in accordance with the Project Schedule, as may be revised from time to time by FCMI. If the Subcontractor or its Sub-subcontractors, either directly or indirectly negatively impact the Project Schedule, it shall be required, at no additional costs to FCMI, to take all necessary steps including, but not limited to, additional staffing, overtime, hiring additional contractors, special equipment, and special deliveries to achieve the Project Schedule as quickly as possible. If the Subcontractor is unwilling or unable to take the required steps then FCMI may, at its sole discretion, provide the Subcontractor with written notice that it has three (3) days to take action to return to the Project Schedule. If the Subcontractor fails to take the steps necessary to achieve the Project Schedule within three (3) days, then this Subcontract may be terminated, and FCMI may assume responsibility for the Subcontractor Scope of Work. The Subcontractor shall be solely responsible for any and all costs, direct or indirect, arising from Subcontractor failing to meet the Project Schedule.
- 8.4 If the Subcontractor is unable to complete their Work due to circumstances outside of their control the Subcontractor will complete the delayed Work in the same number of days as required in the Project Schedule.
- 8.5 If delivery of any equipment or materials may impact the Subcontractor's ability to complete their Scope of Work, the Subcontractor must notify the Contractor promptly upon award of Contract so that measures can be taken to mitigate schedule delays. If delivery issues arise, the Contractor must be informed immediately in writing. The Subcontractor may, at the discretion of FCMI, be required to make special arrangements, at their expense, if the Project Schedule would be impacted. The Subcontractor is responsible to understand delivery timelines of their material and equipment at the time of tender. If specified materials or equipment are not available on time to complete the Project on schedule, without negatively impacting other scopes of work, the Subcontractor will provide approved alternate equivalent materials or equipment or provide express shipping or other services as necessary at their cost to complete their Scope of Work per the Schedule provided by FCMI.
- 8.6 The Subcontractor shall not be entitled to additional compensation for compliance with schedule revisions, except to the extent the Contract Documents entitle FCMI to additional compensation and such reimbursement is actually obtained from the Owner.

SC 9 – INVOICING AND PAYMENT

- 9.1 The parties shall comply in all respects with the applicable requirements of the Prompt Payment and Construction Lien Act of Alberta (hereinafter called the "Prompt Payment Act").
- 9.2 The Subcontractor's invoices in the form required by this Subcontract, and other information as reasonably required by FCMI, covering Progress Claims showing this Subcontract, and any other information as reasonably required by FCMI, must be received by FCMI by submission either through FCMI's CMIC Payment Request or email. Application no earlier than the 20th day of each month in which materials were supplied or

- work performed. No invoices will be accepted after the 20th day of each month as a requirement of a proper invoice as per the Prompt Payment Act and this Subcontract.
- 9.3 FCMI will advise the Subcontractor that it must revise and resubmit an invoice with any necessary changes to make it a proper invoice as defined in the Prompt Payment Act, as may be modified by agreement between the parties to the extent permitted by the Prompt Payment Act ("Proper Invoice") no later than the 10th day of the following month. If an invoice needs to be revised, it may result in delay of payment for the invoice. No invoice will be paid for any amount other than the amount invoiced; if the invoice amount needs to be changed, it will be the Subcontractor's responsibility to adjust and resubmit the invoice.
- 9.4 All invoices must be submitted with a Fillmore Construction Invoice Backup Summary. The Excel file can be obtained from the FCMI Project Manager. The Subcontractor will be required to provide backup of Sub-subcontractor and major supplier invoices as required by FCMI to verify billing to date is accurate.
- 9.5 The Subcontractor may invoice for completed work with a fully authorized Change Order from FCMI. Change Requests will not be invoiced or referenced on invoices, only Change Orders previously approved by FCMI.
- 9.6 Current confirmation that the Subcontractor maintains an account in good standing with the Workers' Compensation Board for the appropriate province or territory of Work must be included with all invoices. A duly signed statutory declaration must be submitted with all invoices before payment of any amount payable under the Subcontract. If these items are not included with the invoice submission then processing of invoices will be delayed until these documents are received. If at any time the Subcontractor's Workers' Compensation clearance falls into arrears it will be required to provide clearance immediately prior to Work commencing. If clearance is not obtained within 72 hours, the Subcontract may be terminated.
- 9.7 Proper invoices shall be paid monthly by FCMI covering 90% of the value of the Work completed by the Subcontractor to the end of the previous month; such payments to be made 7 days after FCMI receives payment for such work from the Owner, but in no event shall payment be made later than 35 days after the end of the previous month in which the owner received FCMI's invoice, unless:
- the Owner disputes all or a portion of the FCMI proper invoice and issues a Notice of Dispute to FCMI and FCMI issues a Notice of Non-Payment to the Subcontractor; or
 - FCMI disputes all or a portion of its obligation to pay the Subcontractor's invoice by issuing a Notice of Non-Payment Dispute to the Subcontractor not later than 7 days after FCMI has received payment from the Owner; or
 - the Owner does not make payment in full to FCMI within 35 days of the Owner's receipt of FCMI's invoice.
- 9.8 Payment of the balance owing under the Subcontract, including any holdback retained by FCMI from the Subcontractor, shall be made within 7 days after payment has been received by FCMI, or within 35 days after FCMI has submitted its proper invoice for final payment following substantial completion under the Prime Contract, or termination of the Prime Contract, or stoppage of the Project, whichever is earlier, subject to (a) or (b) above. The Subcontractor may apply for and receive payment based on the progressive release of holdback if provided for under the Prime Contract, Owner approval and the written agreement of FCMI.
- 9.9 If FCMI fails to make any payments to the Subcontractor as such payments become due under the terms of the Subcontract, or under a determination and order of an adjudicator pursuant to the Prompt Payment Act, an award by arbitration or a court, interest at the Prime Rate on such unpaid amounts shall also become due and payable until payment.
- 9.10 Such interest shall be calculated and added to any unpaid amounts monthly. The Prime Rate shall be the rate of interest set by the Bank of Canada for prime business loans to the most credit worthy customers, as it may change from time to time.
- 9.11 The Subcontractor must execute and submit a statutory declaration, in a form and content acceptable to FCMI, before any amount is payable to the Subcontractor.
- 9.12 Unless specifically agreed to prior to award of the Subcontract, no deposits or payments for future labour, material, equipment or Sub-subcontractors will be considered before Work is delivered to site and completed as required.
- 9.13 The Subcontractor will deliver to site all materials and equipment as required. FCMI will not approve invoices for materials that are delivered earlier than they are actually required on Site.
- 9.14 If for any reason the Subcontractor has been overpaid for the Work completed to date it is the Subcontractor's responsibility to immediately notify FCMI and immediately make arrangements to return overpayments to FCMI. Regardless for the reason for overpayment, the Subcontractor will ensure all funds owed are returned promptly.
- 9.15 The Subcontractor shall promptly and satisfactorily settle and pay for all accounts or claims made by the Subcontractor and its Sub-subcontractors or anyone for whom it has responsibility related to the Work. In no event will the Subcontractor permit a lien or encumbrance against the Project.
- 9.16 The directors, officers and shareholders of the Subcontractor shall be personally liable for any losses to FCMI arising from any statutory declaration which are, in whole or in part, false.

SC 10 – RIGHT OF SETOFF

- 10.1 Subject to any applicable provisions of the Prompt Payment Act, the Contractor is entitled to set off against any payments owing to the Subcontractor against liabilities, or potential liabilities, arising out of the performance of the Work under this Subcontract, or any other contract, FCMI has with the Subcontractor, in such amounts as determined by FCMI including, but not limited to, payment for costs to repair deficiencies in the Work, pay Sub-subcontractors and material suppliers at the Subcontractor's expense. This is inclusive of the Contractors affiliated companies.

SC 11 – SURETY BONDS AND SUBCONTRACTOR PERFORMANCE SECURITY

- 11.1 FCMI may request in writing a labour and material and/or a performance bond on the Subcontractor within 28 days of this Subcontract Agreement effective date. If bonding is secured FCMI will compensate the Subcontractor for the exact value paid for bonding plus a 5% fee. When requested, the Subcontractor agrees to provide a surety bond in a form designated by the Contractor, naming the Contractor as the obligee or beneficiary. The subcontractor must maintain performance security in good standing until completion of the Subcontract, including the discharge of all warranty obligations.

- 11.2 SAC Enhanced Bond Forms 2021 to be used for all bonds. In the case of performance security, these are to be “Fast Track” Performance Surety Bonds.
- 11.3 In the event the Subcontractor fails to furnish such bonds to FCMI, such failure shall constitute a default by the Subcontractor of this agreement. Alternatively, a 10% letter of credit provided by a trusted financial institution may be accepted at FCMI’s discretion.

SC 12 – SUBCONTRACTOR CHANGE REQUESTS

- 12.1 When FCMI requests in writing, the Subcontractor shall make any and all changes in the Scope of Work which are within the general scope of this Subcontract Agreement.
- 12.2 The Subcontractor shall, within the timeline indicated in the Contract Documents, or no later than seven (7) calendar days from the date of receiving a written Change Request, submit any requested adjustment in the Total Subcontract Amount.
- 12.3 Costs must be deemed reasonable by FCMI, the Consultant and the Owner. The Subcontractor must provide a full labour, material and Sub-subcontractor breakdown and corresponding backup for all changes. In no situation will the Subcontractor charge for regular time labour at a rate higher than 50% above the publicly demonstrable industry average hourly rate paid to the worker. Written backup from suppliers for materials, consumables and equipment must be provided. The backup will be specific to this Project and FCMI may require later confirmation of exact component costs in the form of an invoice from the supplier. General or list pricing provided by suppliers will not be acceptable as backup unless a corresponding letter is provided from the supplier indicating any discount or credits available for the material to the Subcontractor.
- 12.4 Change Requests that should result in a credit must be found reasonable by FCMI, the Consultant and the Owner. If the Subcontractor is not willing to offer a reasonable credit, then FCMI, the Consultant and the Owner will determine a fair credit for the applicable Scope of Work and apply it to the Subcontractor’s Contract.
- 12.5 If the Contract Documents indicate a percentage profit and overhead allowed on Change Requests then the Subcontractor must adhere to those rates without exception. Where the Contract Documents do not specify rates, Change Request overhead rates will not exceed 5% and profit rates will not exceed 5% of actual change costs for each of the Subcontractor and its Sub-subcontractors.
- 12.6 The Subcontractor is to note any reasonable increase in Contract duration for completing a Change Request at the time a Change Request is provided. Contract extensions must be appropriate for the changed scope and agreed upon by FCMI, the Consultant and the Owner. If no notification of Contract extension is provided with pricing for a Change Request, then no extension will be provided.
- 12.7 Change Request costs must be presented to the Project Manager in writing. The Site Superintendent is not able to approve Change Requests or any costs associated to a Change Request. The Subcontractor’s responsibility to provide pricing before Work proceeds can only be waived by the Project Manager in writing.
- 12.8 Force account work can only be initiated through written direction by the Project Manager. No other person can initiate a force account including the Site Superintendent. Hours spent, equipment rentals, and material used on Site must be signed off by the Site Superintendent, however, final approval of number of billable hours, hourly rates and other costs for the Work can only be approved by the Project Manager.
- 12.9 Any adjustment in the Total Subcontract Amount, or time for performance, must be authorized by a Change Order prepared by FCMI and signed by the Subcontractor.
- 12.10 If the Owner or Consultant requests any additional work on Site or otherwise directly to the Subcontractor, the Subcontractor must inform the Project Manager in writing of work required prior to any Work commencing. If the Project Manager is not informed then requests for compensation may be rejected.

SC 13 – SHOP DRAWINGS AND SUBMITTALS

- 13.1 Within one week of Project award the Subcontractor will provide a summary of all shop drawings and submittals required for their scope of work. The Subcontractor is responsible for providing and maintaining a listing of all its past, current, future, approved, submitted, resubmitted, and rejected shop drawings throughout the duration of the Project. A blank submittal listing template will be made available to the Subcontractor. Timely and accurate submission of all shop drawings and submittals is imperative. Project delays due to the Subcontractor’s failure to submit its shop drawings and submittals in a timely, accurate, and organized manner will not be deemed as grounds for deviation from, or alteration of, the Project Schedule. The Subcontractor will complete submittals in metric or imperial to match the Project documents at no additional cost.

SC 14 – PROJECT STAFFING

- 14.1 The Subcontractor shall employ a competent, knowledgeable, and fully dedicated supervisor, and any necessary workers, all satisfactory to FCMI, throughout the course of the Work. The supervisor shall not be changed except with the consent of FCMI. The supervisor shall represent the Subcontractor and direction given to the supervisor shall be deemed to be given to the Subcontractor. The Subcontractor shall not employ on the Work any unfit or unskilled person.
- 14.2 The Subcontractor will ensure their Work is completed in full, in a good and workmanlike manner, in the correct sequences per the Project Schedule and the Contractor.
- 14.3 Should the Subcontractor use piecework trades people, they will supplement these workers with hourly forces to complete work efficiently and effectively as required by the Contractor. Should temporary workers be utilized, the Subcontractor is responsible to supervise and manage these workers to ensure the Work is being performed safely and with the necessary skill set. FCMI is not responsible for management of the Subcontractor’s workforce.
- 14.4 The Subcontractor shall remove from the Project Work Site any Subcontractor employee or Sub-subcontractor who, in the reasonable opinion of the Contractor, is unfit or unskilled or persistently disrupts the activities of FCMI or other subcontractors.

- 14.5 It is the responsibility of the Subcontractor to ensure their workers possess sufficient English language proficiency to understand all project health and safety information and general instructions provided verbally and/or in writing. All project information as well as health and safety information, orientations and meetings will be conveyed in English only. Where a worker does not possess a working knowledge of the English language it is the Subcontractor's responsibility to: provide language translation services to the worker to explain safety requirements; translate all policies, risks, safe work practices and procedures and emergency procedures; and convey general instruction and direction as required on site. The translating individual must be on site and available for translation at any time the worker requiring translation is on site.

SC 15 – SPECIAL ACCREDITATION

- 15.1 Any responsibilities for special accreditations of any sort including but not limited to LEED® and Built Green as required in the Project documentation will be enforced. The Subcontractor will provide all necessary documentation in the timelines as specified by the Project Manager and will ensure that all onsite requirements are met at all times.

SC 16 – PROJECT COMMUNICATION

- 16.1 The Subcontractor will provide to FCMI the contact numbers and email addresses for their Project Manager, Site Manager, and their Sub-subcontractors' management upon receipt of Subcontract. Should FCMI have concerns, and the Subcontractor is not facilitating discussion, then FCMI will take whatever actions are necessary to mitigate the Project concern at the Subcontractor's expense.

SC 17 – PROJECT MEETINGS

- 17.1 The Subcontractor and Sub-subcontractors, upon receiving notice, will participate in any and all meetings as required by FCMI, including, but not limited to: Project Startup Meetings, Weekly Progress Review Meetings, Accident / Incident Investigation Meetings, Safe Work Plan Meetings, Daily Safety Meetings, QA/QC Meetings, Scheduling Meeting, Weekly Tool Box Meetings, Safety and Loss Management Meetings, Potential Problem Analysis Meetings, Material Planning Meetings, Project Close Out Meetings and any others as deemed required by FCMI.

SC 18 – SITE SECURITY

- 18.1 The Subcontractor is responsible to protect their materials, tools, equipment, finishes and similar property. FCMI is not responsible for any materials, finishes equipment or other property that are damaged or stolen from site prior to the complete installation of such components. FCMI is not responsible for the theft of or damage to any tools or equipment the Subcontractor have furnished to the site. The Subcontractor shall be responsible for any damages or losses caused by their failure to adequately secure their materials, tools, equipment, finishes and similar property.

SC 19 - SAFETY REQUIREMENTS

- 19.1 The Subcontractor will ensure that all of its employees and Sub-subcontractors follow the more stringent of FCMI's Health and Safety policy, the Subcontractor's Health and Safety Policy, the Owner's Health and Safety policy, all applicable governing Health, Safety, Environmental Legislation or any other governing legislation. The Subcontractor is responsible to review FCMI's full policies available on Site with the FCMI Site Superintendent or in FCMI's office.
- 19.2 The Subcontractor will ensure that their workers and Sub-subcontractors utilize proper personal protective equipment at all times while on Site based on the Work being performed. FCMI's minimum personal protective equipment requirements include the use of a CSA approved Hard Hat, Steel Toe Boots, Safety Glasses, Safety Vest, gloves, full length pants and a sleeved shirt. Exceptions for some personal protective equipment may be granted when specifically accepted in writing by the Site Superintendent based on it being infeasible or unsafe to wear certain personal protective equipment in restricted areas and circumstances.
- 19.3 The Subcontractor will provide reasonable protection to prevent damage, injury or loss to: Persons, finishes, materials and equipment whether on or off the Site, and on all adjacent properties. Protection will be required for trees, shrubs, lawn, walkways, pavement, roadways, structures and utilities not designed for removal, relocation or replacement during construction.
- 19.4 The Subcontractor will ensure that any employees and Sub-subcontractors entering the Project site for the first time advise the FCMI Site Superintendent the day before entering the Site to arrange for a site orientation by the Site Superintendent or assignee; site orientations are held once daily.
- 19.5 The Subcontractor will ensure that all its tools and equipment are used and maintained in accordance with manufacturer's specifications without alterations. All work practices must be performed in a safe manner according to FCMI policies, the Subcontractor's policies, the Owner's policies, the Site Superintendent, and any governing legislation. The Subcontractor will ensure that its employees and Sub-subcontractors have appropriate training and certification to use any equipment they utilize throughout the duration of the Project. The Subcontractor will be responsible to verify competency of all its employees and Sub-subcontractors on any equipment used by them regardless of who supplied the equipment. Equipment checklists must be completed by the Subcontractor a minimum of once daily when the equipment will be operated in any way. This documentation must be available for inspection at any time the equipment is on Site.
- 19.6 All workers and visitors of the Subcontractor and its Sub-subcontractors will perform daily Hazard Assessments prior to starting any task. Hazard assessments will be performed a minimum of once per day and updated prior to any new task.
- 19.7 At least once per week the Subcontractor and its Sub-subcontractors will attend FCMI Tool Box Safety Meetings with all workers currently on Site. Alternatively, the Subcontractor may host their own Tool Box Safety Meeting if FCMI does not require the Subcontractors attendance at FCMI's Tool Box Safety Meeting. When the Subcontractor hosts its own Tool Box Safety Meetings they will provide documentation to the Site Superintendent following the meeting.

- 19.8 The Subcontractor will ensure that housekeeping is kept to a high standard at all times while performing work on the Site. The Subcontractor will ensure that such housekeeping includes, but is not limited to keeping walkways clear, removal of trash and debris, and ensuring elimination of any slip and/or trip hazards in its work area. The Subcontractor will be held directly responsible for any incident that occurs due to their poor housekeeping.
- 19.9 Consuming, being under the influence of, or being in possession of alcohol, legalized, illegal or controlled prescription drugs on any FCMI premises, in vehicles or on any work site, is strictly prohibited. If FCMI has any reason to believe that a worker may be under the influence of alcohol, legalized, illegal or controlled prescription drugs FCMI will contact the Subcontractor. The Subcontractor will remove the worker from site immediately and will be required to complete testing to confirm if any infractions have occurred. Any worker who FCMI believes may be under the influence will not be permitted back on Site until testing information from a certified agency has been provided to FCMI. FCMI will in no way be responsible for the costs of or the coordination of the above noted tests or getting the noted worker to the proper facilities for testing regardless of the test results.
- 19.10 Any worker with a medical condition which could cause a hazard to the worker or other workers on Site must bring the condition to the attention of the Site Superintendent before beginning work on Site. Only at this time may controlled prescription drugs be allowed on Site for this specific condition if accompanied by a signed doctor's note indicating that the worker is able to perform their required tasks.
- 19.11 Smoking will not be permitted inside the construction zone except in a specific zone designated by the Site Superintendent.
- 19.12 The Subcontractor will participate in any joint health and safety committee or similar committee as required by legislation or in FCMI's sole opinion.
- 19.13 SDS documentation must be supplied to the Site Superintendent for all controlled products immediately upon arrival of products to the Site. All safety requirements detailed in the SDS documentation must be adhered to in full. Upon request, the Subcontractor must promptly provide FCMI all health and safety related documentation including, but not limited to: employee training records, employee certificates of qualifications, minutes of safety meeting minutes, tool-box meeting attendance records, permits, certificates of inspection, worksite equipment inspection documents, tool or equipment operating instructions and project use instructions.
- 19.14 The Subcontractor is responsible to organize transportation on an immediate as needed basis for their workers as required for medical care or follow up consultation.
- 19.15 The Subcontractor will ensure that the FCMI Site Superintendent is notified immediately if any of the Subcontractor's workers are involved in a near miss, personal injury/first aid, medical aid, property damage or any other incident on any FCMI site. A full investigation and an incident report must be completed immediately and submitted to the Site Superintendent within 24 hours.
- 19.16 Failure to adhere to any of the above regulations may result in disciplinary safety warnings, suspension from Site, and/or termination of this Subcontract with prejudice.
- 19.17 The Subcontractor and its Sub-subcontractors will follow the safety direction of the FCMI Site Superintendent, Project Manager or Safety Officer. Anyone refusing to follow FCMI direction will be removed from the Site immediately.

SC 20 – LEGAL COMPLIANCE: PRIVACY

- 20.1 In carrying out its obligations under the Subcontract, the Subcontractor agrees any personal information collected, used or acquired by the Subcontractor, or its Sub-subcontractors, in connection with this Subcontract shall be protected against unauthorized use, disclosure, modification or loss. The Subcontractor shall ensure its directors, officers, employees, Sub-subcontractors or agents use personal information in accordance with applicable privacy legislation, regulations, standards and codes and solely for the purposes of carrying out the Work.

SC 21 – PUBLIC COMMUNICATION

- 21.1 Except as required by law, no public release of any information, or confirmation or denial of same, with respect to the Subcontract or the subject matter hereof, including photographs or videos of the Site on social media, will be made by the Subcontractor, its employees, representatives, or any Sub-subcontractor, without the prior written approval of FCMI.

SC 22 – CLEANLINESS OF WORK AREA

- 22.1 FCMI will provide garbage and/or recycle bins for use by the Subcontractor for general waste unless otherwise noted in the Subcontractor's quotation and/or this Subcontract. The Subcontractor is responsible to sort recyclables and garbage into appropriate bins on a daily basis or more frequently if directed to do so. If debris is not removed in a timely manner, costs may be applied for removal of debris by FCMI.
- 22.2 The Subcontractor shall at all times continuously keep their work area within the Project Site in a neat, clean and safe condition and shall conduct its operations in such a way as to minimize impact upon the environment.
- 22.3 The Subcontractor is responsible to remove debris and complete all cleaning associated with their work area as they work. In addition to work area cleaning, the Subcontractor shall designate one worker for a full work day per week for every five workers to participate in general housekeeping. For contracts over \$1,000,000 the Subcontractor will ensure a worker is included for full time site cleaning. The general work site clean up will be organized by the FCMI Site Superintendent and shall be strictly adhered to by the Subcontractor.
- 22.4 FCMI may undertake cleanup or temporary structure removal, as FCMI determines to be necessary, without further notice and deduct the costs from any amounts due to the Subcontractor.

SC 23 – PROTECTION OF WORK

- 23.1 The Subcontractor shall take necessary precautions to properly protect its work and operations, the work of others and adjacent property from damage caused by the Subcontractor's operations and shall identify such precautions in its safety plan as appropriate. Should the Subcontractor cause damage to the work or property of the Owner, FCMI or others, the Subcontractor shall promptly notify FCMI and shall remedy such damages to the satisfaction of FCMI or FCMI may remedy the damage and deduct its costs from any amounts due or to become due to the Subcontractor.

SC 24 – DAMAGE OF OTHER TRADES' WORK

- 24.1 If the Subcontractor damages the Work of any other subcontractor or materials supplier, private property, property of the Owner or adjacent properties, then the Subcontractor that caused the damage will be responsible for all costs associated with the repair or replacement of the property or Work. If no subcontractor will accept responsibility for damages, then FCMI will solely determine how costs for repairs will be divided or distributed amongst the subcontractors present on Site. This decision will be binding.

SC 25 – PERMITS, INSPECTIONS AND CONFIRMATION OF INSTALLATION

- 25.1 The Subcontractor shall obtain and pay for all permits, licences and certificates relative to the Scope of Work under this Subcontract.
- 25.2 The Subcontractor is responsible to ensure that any inspections required to complete its work are ordered and completed in a timely manner to maintain the Project Schedule. These inspections include but are not limited to first call inspections, regular re-inspections as required by first call and any private inspections required in order to ensure the safety of all workers.
- 25.3 The Subcontractor is responsible to obtain and facilitate all required Consultant inspections, third party inspections, material testing, permits, municipal inspections and licences necessary per the Project Documents and for the region in which the Project is being completed. These will be facilitated and obtained by the Subcontractor in a timely manner to facilitate the Project Schedule and other Project requirements. All costs and other consequences associated to the Subcontractor's failure to meet these requirements will be the sole responsibility of the Subcontractor including any liquidated damages, consequential damage and/or other damages for delay.
- 25.4 Any subcontractor whose scope of work includes below grade or overhead water, sanitary, storm or sprinkler lines of any sort will complete pressure tests, ball tests, other testing and/or video inspection to ensure all lines are watertight, properly sloped and per industry standards. The Subcontractor is responsible for all damages, consequential, liquidated and otherwise associated with leaks or line failures found within six years of substantial completion. The Subcontractor will be responsible for all sags, breaks, clogs and deflections in pipes regardless of their cause. The Subcontractor is responsible to ensure all testing and inspections are complete prior to scheduling backfill and concrete/asphalt pour dates. Any financial damages to the Subcontractor, FCMI and the Owner due to failures will be at the Subcontractor's cost. Builder's risk insurance will only be used to cover damages at FCMI's discretion with costs otherwise covered by the Subcontractor.

SC 26 – QUALITY ASSURANCE / QUALITY CONTROL PROGRAM (“QA/QC PROGRAM”)

- 26.1 FCMI enforces a detailed QA/QC Program on all FCMI projects. The Subcontractor is responsible to enforce, assist in and enable FCMI's and any other QA/QC Program as required on this Project. No additional cost will be applied by this Subcontractor for involvement in any QA/QC Program.

SC 27 – MATERIAL DELIVERIES AND STORAGE OF MATERIALS ON SITE

- 27.1 FCMI and their employees are not responsible for receiving or moving the Subcontractor's materials or equipment delivered to the site. The Subcontractor will have equipment and sufficient labour on the Project to receive, move and offload its own materials. Arrangements may be made with FCMI to receive materials or equipment on behalf of the Subcontractor, labour and equipment costs may be charged by FCMI. In no situation will FCMI assume responsibility for the quantity, quality, confirmation of delivery or condition of any materials received, even if materials are damaged by FCMI during unloading and loading.
- 27.2 It is the Subcontractor's responsibility to protect and secure their materials, tools and equipment from damage or theft. The Subcontractor will supply appropriate storage facilities to ensure protection and security of its materials. FCMI will only accept possession and responsibility for materials required on Site at time of delivery and once they are installed in their permanent location as per the Contract Documents. If materials, tools or equipment are damaged or stolen, it will be the Subcontractor's responsibility to obtain new materials as required to complete the Project on schedule at its cost. Payment of an invoice on behalf of the Subcontractor for said materials does not remove these responsibilities from the Subcontractor. The Subcontractor will not store excess or no longer required materials on Site; excess materials must be removed from the Site promptly at the sole expense of the Subcontractor.

SC 28 – PARTIAL OCCUPANCY

- 28.1 Should the Owner or FCMI require partial occupancy of the Project, the Subcontractor will make all reasonable efforts to assist in preparing the area that is to be partially occupied.

SC 29 – INSURANCE

- 29.1 The Subcontractor shall, without limiting its obligations or liabilities as stated elsewhere in this Subcontract, obtain and continuously maintain at its own expense and cost, the following insurance coverages:
- (a) Workers' Compensation coverage on all employees, officers and directors engaged in the Work in accordance with the statutory requirements of the province or territory having jurisdiction over such employees;
 - (b) General Liability insurance, including coverage for completed operations and hazard;
 - (c) Automobile Liability insurance covering all owned and non-owned motor vehicles operated or used by the Subcontractor in the performance of the Work;
 - (d) Equipment insurance covering all construction machinery, temporary buildings, equipment and materials used by the Subcontractor in the performance of the Work;
 - (e) if watercraft or aircraft are used or operated by the Subcontractor in the performance of the Work, watercraft and aircraft liability insurance;
 - (f) to the extent that the Work includes professional services including, but not limited to, design services, professional liability insurance covering the Subcontractor's professional services (and any professional services provided by a Sub-subcontractor or a consultant of the Subcontractor);
 - (g) such other insurance that may be deemed required by the Owner or FCMI.

- 29.2 The minimum limits of insurance to be provided by the Subcontractor in SC 29.1 (b), (c) and (e) shall be the greater of the corresponding limits required by the Prime Contract and \$5 million per occurrence. Such insurance shall be maintained for at least two years following completion of the Project and, for the insurance required under SC 29.1 (b), for six years with respect to the completed operations hazards. The minimum limits of insurance to be provided by the Subcontractor under SC 29.1 (f) shall be the greater of the corresponding limits required by the Prime Contract and \$2 million per occurrence. Such insurance shall be maintained for at least two years following completion of the Project.
- 29.3 The Subcontractor's general liability insurance shall name both FCMI and the Owner as additional insureds with respect to liability arising out of the operations of the Subcontractor in performing this Subcontract and shall provide that the insurer shall waive any right of subrogation against FCMI and the Owner. The Subcontractor's equipment insurer shall also name both FCMI and the Owner and as additional insureds and waive any right of subrogation against FCMI and against the Owner.
- 29.4 On projects where the Owner or FCMI provide Course of Construction and/or Wrap Up Liability insurance, such insurance will be subject to deductibles. The applicable deductible shall be the obligation of the party causing the damage or injury. In the case of Course of Construction losses, if no responsible party can be established, the deductible shall be borne by the party or parties whose work has been damaged in proportion to such damage. If FCMI is providing Course of Construction and/or Wrap Up Liability insurance, the applicable deductible shall not be less than \$100,000 per loss. It is the responsibility of the Subcontractor to satisfy itself as to the adequacy of such insurance.
- 29.5 Prior to the commencement of the Work, and as a condition of payment, and upon request by FCMI during the course of its completion, the Subcontractor shall provide to FCMI a certificate of insurance in respect of the required insurance coverages, or a certified copy of the entire policy or policies, if so requested, and a clearance certificate or similar instrument of the relevant workers' compensation authority or authorities. The insurer shall provide 30 days' prior written notice of cancellation to FCMI and the Owner of the coverage required under SC 29.1 (b), (c), (d), (e), (f) and (g).
- 29.6 The Subcontractor will adhere to all special requirements as set out by FCMI's or the Owner's insurance provider. Any and all damages and liquidated damages incurred due to failure to adhere to these requirements will be the sole responsibility of the Subcontractor.

SC 30 – INDEMNIFICATION

- 30.1 The Subcontractor shall indemnify and hold harmless FCMI, its agents, employees, affiliates, directors, officers and shareholders, from and against any and all claims, demands, losses, costs, damages, suits or proceedings by third parties ("Third Party Liabilities") that arise out of or are attributable to the Subcontractor's performance or non-performance or breach by the Subcontractor of the Contract Documents. Without limiting the generality of the foregoing, this includes Third Party Liabilities caused in whole or in part by any intentional or negligent act or omission of the Subcontractor or anyone directly or indirectly employed by the Subcontractor, or for any person or entity, including Sub-subcontractors, for whose acts or omissions the Subcontractor may be liable.
- 30.2 The indemnification obligations indicated in this agreement survive the completion and/or termination of the Subcontract.
- 30.3 Except as otherwise indicated in this agreement and in the Prime Contract, each party shall only be liable to the other for direct damages and shall not be liable for any loss of profits or consequential loss.

SC 31 – TERMINATION OF PRIME CONTRACT BY OWNER

- 31.1 Should the Owner terminate the Prime Contract or any part which includes the Scope of Work of the Subcontract, this Subcontract Agreement shall be terminated and the Subcontractor shall immediately stop Subcontract Work, follow FCMI's instructions and mitigate all costs. In the event of Owner termination, the liability of FCMI to the Subcontractor shall be limited to the extent of FCMI's recovery on Subcontractor's behalf under the Prime Contract.

SC 32 – DEFAULT AND TERMINATION OF SUBCONTRACT

- 32.1 If the Subcontractor at anytime shall refuse or neglect to supply a sufficient number of properly skilled workmen or sufficient materials or equipment of the proper quality, or fails in any respect to prosecute its Work with promptness and diligence, or fails to promptly correct defective Work, or causes by any act or omission the stoppage or interference with the Work of the Contractor, or other Subcontractors, or fails to pay labourers, Sub-subcontractors and suppliers when due, or shall be insolvent or unable to meet its obligations, or shall make an assignment for the benefit of creditors, or shall commence any proceeding in bankruptcy, or if any such proceedings are commenced against it, that are not discharged within fifteen (15) days, or fails in the performance of any of the obligations contained in the Subcontract, the Subcontractor shall be deemed to be in default and FCMI may, at its option, at any time after providing written notice of such default with direction to cure in a specific period, but not less than thirty six (36) hours, and Subcontractor's failure to cure the default, terminate this Agreement by providing written notice to the Subcontractor. Thereafter, FCMI may take possession of the Work, materials, tools, appliances and equipment of the Subcontractor at the Project site, and through itself or others provide labour, equipment and materials to prosecute the Subcontractor's Scope of Work on such terms and conditions as FCMI, in its sole discretion, shall be deemed necessary, and shall deduct the costs thereof, including without restriction thereto all charges, expenses, losses, costs, damages and legal fees incurred as a result of the Subcontractor's default from any money due or thereafter to become due to the Subcontractor under the Subcontract Agreement or any other contractual arrangement between the parties. The remedy provided in this paragraph shall not preclude any claim the Contractor may have for other damages allowable under law.
- 32.2 If the Subcontractor defaults under this Contract, or if FCMI terminates the employment of the Subcontractor pursuant to this Standard Condition, the Subcontractor shall not be entitled to any further payments under this agreement until the Subcontractors Work has been completed and accepted by the Owner, and payment has been received by FCMI from the Owner with respect thereto. In the event that the unpaid balance due exceeds FCMI's cost of completion, the difference shall be paid to the Subcontractor; but if such expense exceeds the balance due, the Subcontractor agrees promptly to pay the difference to FCMI.
- 32.3 If the Subcontractor defaults under this Subcontract Agreement, the Subcontractor shall be liable to FCMI for any expenses incurred by FCMI, including legal fees, incurred in connection to this transaction and/or the enforcement of this Agreement.

SC 33 – TERMINATION FOR CONVENIENCE

- 33.1 FCMI shall have the right to terminate this Subcontract, without cause, for convenience, when FCMI determines that it is in its own best interest to so terminate the Subcontract. If the Subcontract is terminated for convenience, the Subcontractor shall comply with all of FCMI's termination instructions and shall be entitled to receive payment for Work actually performed and a reasonable overhead and profit in connection with such Work, except if FCMI Contract with the Owner is also terminated for convenience, termination settlement costs to the Subcontractor shall be as provided in the Contract Documents, and in the amount received by FCMI on behalf of the Subcontractor from the Owner. Subcontractor shall not be entitled to any recovery of profit or unabsorbed overhead in connection with Work not actually performed or future Work.

SC 34 – WARRANTY/ GUARANTEE

- 34.1 Subcontractor warrants to Owner and FCMI that all materials and equipment furnished shall be new, unless otherwise specified, and that all work under this Subcontract Agreement shall be of good quality, free from faults and defects and in strict conformance with the Contract Documents. All Work not conforming to these requirements including substitutions not properly approved and authorized by FCMI, in writing, may be considered defective.
- 34.2 Subcontractor warrants its work for the same period as FCMI warrants the Work to the Owner under the Contract Documents and for the duration of any applicable extended warranties. If the Contract Documents do not state a specific warranty period, then for a period of one (1) year from the date of Substantial Completion of the Contractor's full scope of work of the Project.
- 34.3 If advised by FCMI of a warranty claim, the Subcontractor agrees to promptly make good without costs to Owner or FCMI any and all defects due to faulty workmanship and/or materials which may appear within the warranty period. The Subcontractor further agrees to execute any special guarantees as required by the Contract Documents as a condition of final payment.
- 34.4 No payment to the Subcontractor and no partial or entire use or occupancy of the Work by the Owner shall be construed as an acceptance of any work or material not in accordance with the Contract Documents.

SC 35 – CONTRACT CLOSEOUT REQUIREMENTS

- 35.1 Between substantial completion through final acceptance and payment, including completion of all required deliverables in accordance with the Contract Documents ("Construction Closeout"), the Subcontractor shall submit a list of items to be completed and corrected (the "Subcontractor's Punch List") in accordance with the Contract Documents and to the satisfaction of FCMI and the Owner and at no cost to FCMI and subject to agreement by FCMI as to the completion date for each Punch List work item.
- 35.2 The Subcontractor shall supply all as-built drawings, maintenance manuals, instructions, brochures, guarantees, warranties, certificates, and other similar documents, as required of it by the Contract Documents in a manner and at a time stipulated by the Contractor but in any event not later than the Subcontractor's final progress claim or thirty(30) days before the final inspection of the Owner or its Consultant(s), whichever is earlier. The Contractor shall designate an amount to be retained from the Subcontract Price until the Subcontractor has delivered the materials and documents so required.
- 35.3 As directed by FCMI, the Subcontractor shall demobilize all trailers, temporary facilities and structures and equipment including, but not limited to, temporary power poles, lavatory facilities, scaffolding, storage containers, mud huts from the Work Site immediately after completion of the Work, unless expressly required or approved by the Project Manager and the Owner.
- 35.4 The Subcontractor will leave adequate maintenance materials on the Site in a location and manner acceptable to the Site Superintendent and as noted in the Project Specifications. Upon completion, it is the Subcontractor's responsibility to have the material formally signed off by the Site Superintendent in writing.
- 35.5 Until adequate maintenance manuals are provided to FCMI in a satisfactory manner and satisfactory operations and maintenance manuals, warranty certificates and as-built drawings are submitted and deemed acceptable by FCMI, the Consultant and the Owner, 3% of the Subcontract's total Contract value, with a minimum value of \$10,000, may be retained by FCMI.
- 35.6 The Subcontractor is required to provide the Owner and FCMI with any training and commissioning on Project components as requested or deemed necessary by FCMI, the Consultant or the Owner. Written confirmation signed off by a responsible and appropriate representative of the Owner must be supplied by the Subcontractor to FCMI if requested, or if required in the Contract Documents.

SC 36 – PAYMENT OF BILLS

- 36.1 The Subcontractor shall promptly and satisfactorily settle and pay for all accounts or claims made by the Subcontractor's employees, hires, creditors, subcontractors, permitted assigns, or anyone for whom the Subcontractor has legal responsibility related to the Work. In no event will the Subcontractor permit a lien or encumbrance against the Project, Project lands or any other Project assets ("Encumbrance") by any entity described in this Section 36 and in the case of the Subcontractor, Encumbrances which are not bona fide. If an Encumbrance is registered, the Subcontractor will, at its own expense, promptly and, in any event, no later than the time reasonably required by the Contractor, discharge such Encumbrance. Should the Subcontractor fail to do so, the Contractor may discharge such Encumbrance at the Subcontractor's expense and may set-off those expenses from any payments due to the Subcontractor. Such expenses shall include, but are not limited to, legal costs.
- 36.2 Subcontractor shall keep full and detailed accounts and records necessary for the documentation of payments made to its Sub-subcontractors and suppliers. During the term of the Project, Contractor shall be afforded reasonable access to such documentation including invoices, agreements, change orders, payment application, proof of payment documentation and any other documents that support the payments to Sub-subcontractors and suppliers.

SC 37 – RESOLUTION OF DISPUTES

- 37.1 Any dispute, claim or controversy arising out of or relating to this agreement or the breach, termination, enforcement, interpretation or validity thereof shall be determined by arbitration to be heard in Edmonton, Alberta before a single arbitrator in accordance with the CCDC 40 Rules for Arbitration of Construction Industry Disputes in effect at the date of this Subcontract.
- 37.2 The Subcontractor shall bind all Sub-subcontractors to this arbitration provision.
- 37.3 The arbitrator may include in its award an allocation to any party of such costs and expenses, including legal fees, as the arbitrator shall deem reasonable. In making an allocation, the arbitration shall consider the relative success of the parties in respect of the dispute.
- 37.4 Notwithstanding any dispute, it shall be the responsibility of each party to continue to perform its obligations under this Subcontract pending resolution of the dispute. In the event that provisions for resolution of disputes between FCMI and the Owner contained in the Prime Contract do not permit consolidation or joinder with dispute of third parties, such as the Subcontractor, resolution of disputes between the Subcontractor and FCMI involving in whole or in part disputes between FCMI and the Owner shall be stayed pending conclusion of any dispute proceeding between FCMI and the owner.
- 37.5 In any event of litigation for any reason arising out of this Subcontract, each party agrees to waive its right to trial by jury.

SC 38 – INSOLVENCY AND BANKRUPTCY

- 38.1 In the event of the insolvency of the Subcontractor this Subcontract shall, at the option of the Contractor, cease and terminate and, in that event, the assignees or trustees in bankruptcy of the Subcontractor shall not acquire any interest in or to this Subcontract but shall be paid (but in all cases subject to the terms of this Subcontract including without limitation the provisions of Section 32 hereof) only for such Work as the Subcontractor has performed and been unpaid for as at the date of insolvency or bankruptcy. The Contractor's determination of the amount payable as at the date of insolvency or bankruptcy shall be conclusive.

SC 39 – GENERAL PROVISIONS

- 39.1 The Subcontractor shall not make any assignment of the Subcontract, either in whole or in part, without the prior written consent of FCMI. Any assignment without that consent is void and of no effect.
- 39.2 The Subcontract shall ensure to the benefit of and be binding upon the parties hereto and their lawful heirs, executors, administrators, and successors, permitted assigns.
- 39.3 This Subcontract Agreement constitutes the entire and sole agreement between the parties with respect to the subject matter of the Subcontract and supersedes all previous negotiations, communications and other agreements, whether written or oral, relating to it, unless they are incorporated by reference in this Subcontract. There are no terms, covenants, representations, statements or conditions binding on the parties other than those contained in the Subcontract.
- 39.4 The Subcontractor agrees to be bound by, and at its own cost comply with, all federal, provincial, and local laws, ordinances and regulations applicable to the Subcontract work including but not limited to, prevailing wages, and all other laws with which the Subcontractor must comply according to this Subcontract or the Contract Documents.
- 39.5 This Subcontract may only be amended or modified by a written instrument executed by both FCMI and the Subcontractor.
- 39.6 No failure to enforce any provisions of the Subcontract on account of any breach thereof shall be considered as a waiver of any right to enforce provisions of this Subcontract concerning any subsequent or continuing breach.
- 39.7 The Subcontract shall be governed and construed in accordance with the laws of the Province of Alberta.
- 39.8 The provisions of this Subcontract are severable. In the event that a Court of competent jurisdiction holds any invalid, the remainder of this Agreement shall be interpreted as if such invalid provisions were not contained therein.

END OF DOCUMENT

