

CONSTRUCTION CONTRACT (“Agreement”)

Owner: **TI Caledonia IV LLC**, a Wisconsin limited liability company and its successors and assigns (hereinafter referred to as the “Owner”), whose address is:

c/o Towne Realty, Inc.
710 N. Plankinton Avenue, Suite 1100
Milwaukee, WI 53203
Attention: Chad Navis

For notices to Owner, copies shall also be sent to:

Zilber Ltd.
710 North Plankinton Avenue, Suite 1200
Milwaukee, WI 53203
Attn: Mark S. Madigan

Contractor: **Trinity Construction Company, Inc.**, a Wisconsin corporation (hereinafter referred to as the “Contractor”), whose address is:

**16800 W Greenfield Ave
Suite 119
Brookfield, WI 53005
Attn: Jerry Breske**

Scope of Work: **Curb & Gutter (“Contractor’s Work”)**

Date of Agreement: **July _____, 2026**

Contract Sum: **\$92,536** (hereinafter referred to as the “Contract Sum”)

Progress Payment Date: **25th day of each month.** Partial progress payments shall be made approximately 30 days after Progress Payment Date.

Premises: **Carly Ave/Baxter Court; Caledonia – Lot 6 of the attached Exhibit “A”**

Architect: **Zimmerman Architectural Studios** (retained by Construction Manager) (hereinafter referred to as the “Architect”) whose address is:

**2122 W Mt Vernon Ave
Milwaukee, WI 53233**

Construction Manager: Scherrer Construction (hereinafter referred to as the “Construction Manager”)

In consideration of the mutual covenants and conditions hereinafter set forth and the foregoing definitions which are by this reference incorporated herein, Owner and Contractor hereby agree as follows:

ARTICLE I
The Contractor’s Work

1.1. Performance of the Contractor’s Work. The project is to be located on the real estate described or to be described in Lot 6 of Exhibit “A” comprising the Premises. Contractor, pursuant to the provisions hereof, shall perform all the work necessary to fully and completely construct the Contractor’s Work on the Premises which are generally intended to consist of the improvements related thereto to be commonly known as **“Zilber Industrial 4 (251k sf) at Caledonia Corporate Park”** (all such improvements are hereinafter referred to as the “Project”) as

described and specified in or as logically inferable from the plans and outline specifications (hereinafter referred to as the "Plans") identified on Exhibit "B" attached hereto and by this reference incorporated herein. Contractor shall perform all the work necessary to complete their scope and furnish all the materials, equipment, labor, service, scaffolds, hoisting and transportation for same, together with any tools and machinery and all other protection necessary to perform and protect the Contractor's Work, subject to the allowances (if any) identified on Exhibit "B" attached hereto and by this reference incorporated herein. Contractor acknowledges that it has reviewed and approved the Plans.

1.2. Contractor Acknowledgments.

1.2.1. Contractor acknowledges that it has visited the Premises and is familiar with all of the existing conditions that may affect the Contractor's Work and agrees that: (i) it has carefully examined and reviewed and understands the Plans; (ii) it has carefully examined and understands the nature, location and character of the Contractor's Work and the Premises, including, without limitation, the existing improvements, the surface condition of the Premises and all structures and obstructions thereon, both natural and man-made, and all surface water conditions of the Premises and the surrounding area, not including, however, any subsurface conditions of the Premises not apparent from Contractor's examination of the Premises and from tests and reports submitted to Contractor; (iii) it has carefully examined and understands the nature, location and character of the general area in which the Premises is located, including, without limitation, its climatic conditions, available labor supply and labor costs and available equipment supply and equipment costs; (iv) it has carefully examined and understands the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the Contractor's Work within the Contract Sum; (v) it has the ability to complete the Contractor's Work on or before the dates specified as the Project Milestones (herein after defined as the dates for starting and finishing the various stages of the Contractor's Work as identified on Exhibit D); (vi) it has familiarized itself with conditions affecting the difficulty of the Contractor's Work; (vii) it has entered into this Agreement based on its own examination, investigation and evaluation and not in reliance upon any opinions or representations of Owner or any of its officers, agents or employees; and (viii) it shall comply with any restrictions contained in any Remedial Action Plan issued with respect to the Premises.

1.2.2. Contractor hereby represents and warrants to Owner that Contractor is a business entity which is experienced and skilled in the construction of projects of the type described in the Plans, is licensed to engage in the general construction business in the jurisdiction where the Premises is located and is in compliance with all applicable governmental laws and regulations precedent to performance of the Contractor's Work.

1.2.3. Contractor agrees to furnish efficient business administration, coordination, supervision and superintendence of the Contractor's Work and to furnish at all times a competent and adequate administrative and supervisory staff and an adequate supply of workmen and materials and to perform the Contractor's Work in the best and most sound way and in the most expeditious and economical manner consistent with the interests of Owner. Contractor agrees from time to time at Owner's or Construction Manager's request to furnish estimates and technical advice as to construction methods and equipment to Owner or Construction Manager. Contractor shall promptly advise Owner and Construction Manager of any occurrence, event, fact, or other matter that has had, will have, or might reasonably be predicted to have a material adverse effect upon the financial condition of Contractor.

1.2.4. Contractor shall carefully study and compare the Plans, this Agreement and all schedules, data, documentation and instructions relating to the Contractor's Work (all of the foregoing being hereinafter collectively referred to as the "Contract Documents") and shall, as soon as observed, report to Owner and Construction Manager any error, inconsistency, duplication or omission it discovers. In the event of any conflict or inconsistency between the documents and data comprising the Contract Documents, this Agreement shall control.

1.2.5. Contractor agrees to cooperate with Owner, Construction Manager, and all persons or entities retained by Owner and/or Construction Manager to provide consultation and advice, and to coordinate any Third Party Contractor (hereinafter defined as "Third Party Contractor") so that all work shall be completed in the most efficient and expeditious manner.

1.2.6. Contractor shall perform no portion of the Contractor's Work without strict adherence to the Contract Documents or, where required, final shop drawings, product data or samples for such portion of the Contractor's Work.

1.2.7. Contractor warrants that its financial condition is sound and that Contractor shall be capable of obtaining a labor and material payment and performance bond. Contractor shall be deemed to be in default of its obligations hereunder should a material adverse change in its financial condition cause any revocation of any such bond or result in the failure of Contractor to obtain any such bond.

1.2.8. Contractor shall be responsible to Owner for the acts and omissions related to the performance of the Contractor's Work of all its employees, all subcontractors and their agents and employees, and all other persons performing any of the Contractor's Work under any contract or agreement with Contractor or any subcontractor.

1.2.9. All Contractor's Work shall be performed under the direction of a competent supervisor on location employed by Contractor.

1.3. Commencement and Completion; Liquidated Damages.

1.3.1. **Time is of the essence of Contractor's performance and it shall commence and complete the Contractor's Work as per the attached Exhibit D Contractor's Work Schedule or as directed by the Owner or Construction Manager.** The term "Substantial Completion" shall mean that (i) the Contractor's Work is sufficiently complete as evidenced by delivery to Owner of a Certificate from the Architect certifying that, after due investigation and reasonable inquiry, the Contractor's Work is substantially complete; (ii) all testing and inspections customarily performed by the Village of Caledonia ("Village") with respect to the Contractor's Work including, but not limited to, life safety inspections, have been performed and the results thereof accepted and approved by the Village; and (iii) the Contractor has delivered to the Owner for the benefit of the Owner and any tenant(s) of the Premises ("Tenant(s)") an executed copy of the Certificate of Warranty (Exhibit "C" hereto), as provided for in Section 1.10.3 hereof. Except as specifically provided to the contrary in Paragraph 1.3.4 below, the completion date shall not be extended nor shall the Contract Sum be increased, and Contractor assumes all risks, hazards and conditions encountered in the performance of the Contractor's Work.

1.3.2. By execution of this Agreement, Contractor acknowledges and confirms that the Commencement Date, Project Milestones, and Completion Date (all of which are outlined on attached Exhibit "D") provide a reasonable period of time for performing the Contractor's Work. The Contractor further acknowledges and agrees that the failure of the Contractor to achieve any Project Milestones in accordance with the provisions hereof may cause the Owner to suffer substantial, direct, incidental and consequential damages, including, without limitation, additional construction and financing costs, loss of rental income, loss of interest and/or loss of other investment opportunities, loss of prospective Tenant(s) and/or damage claims by Tenant(s) for which the Owner is or may be liable under the terms of any leases of all or portions of the Premises. Owner and Contractor agree that in the event the Contractor fails to timely perform its obligations hereunder and achieve the Contractor's Work by the Project Milestones, the Owner's damages will be difficult to determine with certainty. Therefore, the Owner and Contractor hereby agree that in satisfaction of the Owner's actual damages, if any portion of the Contractor's Work is not achieved by the corresponding Project Milestone (as may be extended pursuant to Section 1.3.4 hereof), then, and in that event, the Contractor shall pay to the Owner, without further notice of claim to the Contractor, as liquidated damages and not as a penalty: \$1,000 for each and every calendar day commencing five (5) days after the corresponding Project Milestone. Owner may withhold from the Contract Sum the amount of any liquidated damages herein provided for.

Owner may, in its sole discretion, deduct and apply the reserves provided for in Section 2.1 hereof to the payment of liquidated damages due hereunder.

13.3. If Contractor determines (or reasonably should have determined) that events or matters are likely to cause a delay in the progress of the Contractor's Work which may result in a delay, Contractor shall promptly (and in any event, within three (3) days after such events or matters arise) notify Owner and Construction Manager in writing of such potential delay and the likely duration thereof. If a delay actually occurs, Contractor shall also so notify Owner and Construction Manager in writing of such occurrence within three (3) days after the commencement of such delay. Owner shall have no duty or obligation to reply or otherwise take action in response to any such notices.

1.3.4. Provided that Contractor complies with Section 1.3.3, and provided further that Contractor gives Owner and Construction Manager written notice within three (3) days after the conclusion of such delay, the completion date shall be extended if, and only if, the delay is as a result of matters beyond the reasonable control of and without fault of Contractor, including strikes, lockouts, picketing (legal or illegal), acts of God, governmental restrictions or actions, fire or other casualty, unavailability of fuel, power, supplies or materials, or the passage or application of any legal requirements or moratorium of any governmental authority which is not now in effect which has the effect of preventing or delaying progress on the Contractor's Work. Any extension of the completion date shall be for a period of time equal to the additional time required to complete the Contractor's Work caused by such delay; provided, however, in the event that such causes occur concurrently, the actual time of the delay shall be the time elapsed while such causes exist.

1.3.5 Owner and Contractor recognize the existing and potential extraordinary measures being taken by governments, companies, and individuals due to COVID-19 and the potential impacts from the same on this Project. Owner shall not be liable to Contractor for extended overhead or any other delay damages, and the Contract Sum shall not be increased, due to shortage of labor, materials or other causes of COVID-19.

1.4. Materials. All materials and equipment supplied as part of the Contractor's Work shall be new, and all workmanship shall be of the best quality in strict accordance with this Agreement. Contractor shall make no substitution of materials unless approved in writing by Owner and Construction Manager. All work performed by Contractor shall be under the direction of a competent supervisor on the Premises employed by Contractor. Contractor shall, if required, furnish satisfactory evidence as to kind and quality of all materials and equipment. All labor shall be performed by workmen skilled in their respective trades, and workmanship shall be of good quality so that first class work in accordance with the standards of construction set forth in the Contract Documents will result. Any work, materials or equipment which does not conform to these requirements or the standards set forth in the Contract Documents may be disapproved by Owner and Construction Manager, in which case they shall be removed and replaced by Contractor.

1.5. Cleanup.

1.5.1. Contractor shall clean up the Premises in a thorough and workmanlike manner to the reasonable satisfaction of Owner and Construction Manager wherever necessary during the progress of Contractor's Work and upon completion and when reasonably requested by Owner.

1.5.2. The Premises shall be maintained in a neat and orderly condition and kept free from accumulation of waste materials and rubbish during the entire duration of the Contractor's Work. All crates, cartons and other flammable waste materials or trash shall be removed from the Contractor's Work areas at the end of each working day. Contractor shall, and shall require all subcontractors to, clean and maintain its portion of the Contractor's Work as required and as directed by Owner or Construction Manager. If the Contractor's Work and Premises are not maintained properly, Owner or Construction Manager may have any accumulations of waste materials or trash removed and charge the cost to Contractor.

1.5.3. Electrical closets, pipe and duct shafts, chases, furred spaces and similar spaces which are generally unfinished shall be cleaned by Contractor, where appropriate, and left free from rubbish, loose plaster, mortar drippings, extraneous construction materials, dirt and dust before preliminary inspection of the Premises.

1.5.4. All areas of the Contractor's Work in which painting and finishing work are to be performed shall be thoroughly cleaned throughout just prior to the start of such work and those areas shall be maintained in satisfactory condition for painting and finishing. This cleaning shall include the removal of trash and rubbish from these areas; broom cleaning of floors; the removal of any plaster, mortar, dust and other extraneous materials from all finished surfaces, including but not limited to, all exposed structural steel, miscellaneous metal, woodwork, plaster, masonry, concrete, mechanical and electrical equipment, piping, duct work, conduit, and also all surfaces visible after all permanent fixtures, induction unit covers, convactor covers, covers for finned tube radiation, grilles, registers, and other such fixtures or devices are in place.

1.5.5. As soon as practical before Substantial Completion, Contractor shall dismantle all temporary facilities and remove from the Premises all construction and installation equipment, fences, scaffolding,

surplus materials and rubbish of every kind and supplies and the like belonging to Contractor or subcontractors. Owner or Construction Manager may require Contractor to relocate Contractor's equipment during the Term hereof, provided, however, Contractor shall notify Owner if any such relocation shall increase the cost of the Contractor's Work or the delay the estimated completion date.

1.6. Safety. Contractor shall take all necessary precautions to keep the Premises free of safety hazards, and shall protect all materials, equipment and completed and partially completed work from loss and damage, including theft and damage by weather and, if necessary, shall provide suitable housing therefore, and shall correct any damage or disfigurement to contiguous work or property resulting from the Contractor's Work as described in the General Safety and Health Provisions (as described in Exhibit "E" attached hereto). Contractor agrees that the prevention of accidents to workers engaged upon or in the vicinity of the Contractor's Work is its responsibility. Contractor shall establish and implement safety measures, policies and standards conforming to those required or recommended by governmental or quasi-governmental authorities having jurisdiction. Contractor shall comply with the reasonable recommendations of insurance companies having an interest in the Contractor's Work.

1.7. Compliance With Laws.

1.7.1. Contractor agrees to comply with all federal and state laws, codes and regulations and all municipal laws, building codes, ordinances and regulations in force at the commencement of the Contractor's Work, applicable to the Contractor's Work to be performed under this Agreement other than capricious requirements of code inspector, and to obtain at its own expense all licenses and permits necessary for the performance of the Contractor's Work. Contractor shall not be deemed to have any liability to Owner with respect to hazardous materials except to the extent caused by Contractor. Contractor shall promptly, at its sole cost and expense, correct any violations of such laws, codes, regulations, ordinances and orders committed by Contractor, its subcontractors, agents, servants and employees. Contractor shall pay all taxes, assessments and premiums under the Federal Social Security Act, any applicable Unemployment Insurance, Workers' Compensation Act, Sales Tax, Use Tax, Personal Property Taxes or other applicable taxes or assessments now or hereafter in effect and payable by reason of or in connection with any part of the Contractor's Work.

1.7.2. Each contractor and subcontractor shall comply with all federal, state and local codes, statutes, laws, ordinances, rules and regulations and to obtain all licenses and permits necessary for the performance of the work. Each contractor and subcontractor shall comply with all rules and regulations imposed by Owner and Construction Manager.

1.7.3. Each contractor and subcontractor shall comply with any tax abatement programs and take all steps requested by Owner to maximize such opportunities. Contractor acknowledges that any funds or credits made available to Owner as a result of such programs shall be the sole property of Owner and Contractor shall have no right to any such amounts nor shall the amount due Contractor hereunder be increased or reduced as a result of such amounts and 100% of all sales tax savings shall accrue to the benefit of Owner.

1.7.4. Contractor shall obtain the building permit or permits necessary for the proper execution and completion of the Contractor's Work to be performed by it. The costs of Contractor in obtaining such permits ("Permitting Costs") shall be paid by the Contractor.

1.7.5. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance or safety of performance of the Contractor's Work and shall pay any costs or fees incurred in such compliance and any fines or penalties imposed for violation thereof and any costs or fees incurred by Owner due to any such violation.

1.7.6. It shall be the responsibility of Contractor to make certain that the Contract Documents are in accordance with applicable laws, statutes, building codes and regulations provided Contractor shall not be liable for capricious requirements of building inspectors. If Contractor observes that any of the Contract Documents are at variance therewith in any respect, it shall promptly notify Owner and Construction Manager in writing, and any necessary changes shall be accomplished by appropriate Change Order; provided, however, if Contractor or any subcontractor performs any Contractor's Work knowing it to be contrary to such laws, ordinances, rules and

regulations, and without such notice to Owner and Construction Manager, it shall assume full responsibility therefor and shall bear all costs and expenses attributable thereto and for the correction thereof.

1.8. Title. Title to all work completed or in the course of construction or installation, all equipment, construction materials, tools and supplies, the cost of which is chargeable to the Contractor's Work shall pass to Owner simultaneously with payment for such Contractor's Work.

1.9. Liens. Contractor shall keep the Premises free and clear from all liens and charges arising out of the Contractor's Work, including materialmen's, laborers' and mechanics' liens, and shall give Owner prompt written notice of actual and prospective claims of any such liens or charges known to Contractor.

1.10. Warranty.

1.10.1. Contractor warrants to Owner and its successors and assigns (collectively in this Section 1.10 "Owner") and to Owner's Tenant(s) and their successors and assigns ("Tenant(s)") that all materials, equipment and machinery furnished under the Contract Documents will be new unless otherwise specified and that all materials, equipment, machinery and Contractor's Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. If required by Owner, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

1.10.2. Contractor shall promptly correct all defective Contractor's Work or Contractor's Work failing to conform to the Contract Documents whether observed or detected before or after Completion of the Contractor's Work but within the time set forth in Section 1.10.3 below, and whether or not fabricated, installed or completed. Contractor shall bear all cost of correcting such Contractor's Work, including but not limited to damages to property not covered by Owner's insurance, and the fees or costs charged by any consultants of Owner thereby made necessary.

1.10.3. In addition to any guarantee or warranty contained in the Contract Documents or provided at law, Contractor guarantees that all Contractor's Work shall be free from defects in workmanship and material, that Contractor's Work shall be constructed and installed in accordance with the Contract Documents, and that all machinery and apparatus incorporated in the Contractor's Work meets the tests, requirements and capacities prescribed in the Contract Documents. This guarantee applies to all defects and to all other matters occurring within a period of two (2) years from Substantial Completion, or if a defect in the Contractor's Work is a latent defect, then the two (2)-year period shall extend to a period which is two (2) years from when the Owner knew or should have known of the defect, but no later than seven (7) years from the delivery of the Certificate of Warranty referred to immediately below unless the exposure period is extended under Section 893.89 (3) (b) Wisconsin Statutes in which event the seven (7) year period will be extended accordingly. Contractor shall also provide Owner with a Certificate of Warranty in the form of Exhibit "C" attached hereto and made a part hereof. If any manufacturer or supplier of equipment or material furnishes a guarantee or warranty for a period in excess of the above stated period, Contractor shall assign such warranty to Owner at the time the Contractor's Work is Substantially Complete. Contractor further agrees that each Subcontract shall contain a guarantee of the work performed thereunder in the same form as the guarantee required of Contractor. Included in said guarantee shall be the statement that it shall be enforceable directly by Owner. The guarantee of any subcontractor shall not relieve Contractor of its guarantee as set forth above and Owner may look to Contractor directly and in the first instance to correct any defects in the Contractor's Work.

If at any time during the aforescribed guaranty period Owner shall give notice of a breach of guaranty obligation to Contractor or any applicable subcontractor Contractor or subcontractor or both shall, at no cost to Owner, cure such breach and the repair or replacement of any portion of the Contractor's Work damaged or adversely affected by the curing of such breach. All such work shall be performed by trades and persons reasonably acceptable to Owner with a minimum of inconvenience to Owner and at times least disruptive to the operation of the Project.

All defective or non-conforming portions of the Contractor's Work shall be removed from the Premises if being replaced. The Contractor's Work shall be corrected to comply with the Contract Documents without increase in the Contract Sum. Contractor shall bear the cost of making good all work destroyed or damaged by such removal or correction.

If Contractor does not commence to correct and/or remove such defective or non-conforming Contractor's Work within ten (10) days after written notice from Owner or Construction Manager, or if Contractor does not thereafter diligently prosecute such correction or removal, Owner may correct and/or remove same and may store any materials or equipment in connection therewith at the expense of Contractor. Contractor shall pay Owner all such costs including compensation for additional architectural services, together with interest thereon from the date such sums are due to Owner at the Prime Rate of interest set forth in *The Wall Street Journal* plus 5%, together with any costs incurred by Owner, including reasonable fees of counsel, to collect same.

For greater certainty, the warranty and guarantee provisions of this Section 1.10 are for the benefit of the Owner and the Tenant(s) and may be enforced jointly or severally by each of them.

The warranty of Contractor hereunder shall not be limited by any limitation on Contractor's liability contained elsewhere in this Agreement.

1.10.4. The foregoing guarantees, warranties and remedies and those contained in Exhibit "C" are not a limitation and shall not deprive Owner of any action, right or remedy otherwise available to it for breach of any of the provisions of the Contract Documents or for defects in the Contractor's Work. The periods referred to above or such longer time as may be specified elsewhere in the Contract Documents shall not be construed as a limitation on the time in which Owner may pursue such other action, right or remedy at law or in equity, including but not limited to matters involving latent defects.

To the extent that there are any inconsistencies or conflicts in the warranty, guaranty and remedy provisions contained in this Section 1.10 or in Exhibit "C" or the provisions set forth in the Plans, the terms and conditions of this Section 1.10 and Exhibit "C" shall govern.

1.11. Quality Control.

1.11.1. Contractor shall at all times provide sufficient, safe and proper facilities for the inspection of the Contractor's Work by Owner and Construction Manager, and the party loaning funds to Owner in connection with the Contractor's Work (hereinafter referred to as the "Lender") and their respective representatives. Contractor shall, within twenty-four (24) hours after receiving written notice from Owner or Construction Manager, proceed to take down and remove all portions of the Contractor's Work which are unsound, improper or in any way fail to conform hereto and shall replace the same with proper and satisfactory Contractor's Work and make good all work damaged or destroyed thereby. The failure to discover or notify Contractor of defective or nonconforming Contractor's Work at the time the Contractor's Work, or any portion thereof is performed or completed by any party inspecting the Contractor's Work shall not relieve Contractor of full responsibility for replacement of the defective or nonconforming Contractor's Work and all damages resulting therefrom. Contractor agrees and understands that Owner or Construction Manager will not provide continuous or exhaustive inspection of Contractor's Work and that Contractor is fully responsible for the materials, procedures, methods and techniques utilized and for providing completed Contractor's Work. Neither failure to inspect the Contractor's Work nor, upon inspection, failure to uncover defects in the Contractor's Work shall be deemed acceptance of the Contractor's Work. If Owner or Construction Manager elects to accept defective or nonconforming Contractor's Work, Owner or Construction Manager may require an appropriate adjustment in the Contract Sum. No inspection, testing or other administrative activity performed by or for the benefit of Owner shall relieve Contractor from the obligation to perform the Contractor's Work in strict accordance with Contract Documents.

1.11.2. Contractor shall establish a quality control program reasonably satisfactory to Owner and Construction Manager to include sufficient inspection and testing of all portions of the Contractor's Work, coordinated with the proposed construction sequence, to ensure conformance to the Contract Documents with respect to materials, workmanship, construction, finish, functional performance and identification. This quality control program shall encompass all aspects of the Contractor's Work and shall include all specific tests, surveillance and procedures as required by, or to assure compliance with, the Contract Documents and applicable laws, statutes, ordinances and regulations. No portion of the Contractor's Work shall be commenced until Owner or Construction Manager approves such quality control program. Contractor acknowledges and agrees that Owner or Construction Manager's review of their comments to Contractor's quality control program does not constitute a review or approval of the technical

accuracy, professional quality, completeness or sufficiency of such documents and shall not render Owner nor Construction Manager responsible or liable for, and shall not diminish the responsibility or liability of Contractor and/or its subcontractors for, the technical accuracy, professional quality, sufficiency, completeness of such documents or their compliance with the Plans, or with construction permits or other applicable legal requirements for the Contractor's Work or the Project.

1.11.3. Contractor shall furnish reports of all inspections and daily job reports to Construction Manager and shall in a timely manner distribute copies of all inspection reports, certificates of inspection, testing or approval directly to Construction Manager, and such other parties as Owner requests. Contractor shall give Owner and Construction Manager timely notice of all tests and inspections, so that Owner and Construction Manager may observe such inspection, testing or approval. Contractor shall be responsible for and bear all costs of such inspections, tests or approvals required by the Contract Documents or any public authority. Construction Manager shall bear all costs of inspections, tests or approvals not required by the Contract Documents or any public authority, but which are requested by Owner; provided, however, that if any such inspection or testing reveals a failure of the Contractor's Work to comply with the requirements of the Contract Documents or any laws, ordinances, regulations or orders of any public authority having jurisdiction over the Contractor's Work and/or the Premises, then Contractor shall bear all costs thereof. Required certificates of inspection, testing or approval shall be secured by Contractor and promptly delivered by it to Construction Manager.

1.11.4. Contractor shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Contractor's Work performed. All such books, records and other documents, shall be available for inspection, copying, audit and examination for a period equal to the one (1) year after final payment to Contractor hereunder.

1.11.5. Contractor shall provide monthly Project status reports to Owner and Construction Manager detailing the progress of the Contractor's Work, containing such information reasonably requested by Owner and Construction Manager and which shall include, without limitation, progress photographs, daily reports with weather conditions, testing results and weekly schedules. The monthly Project status reports shall be delivered to Owner and Construction Manager at the time Contractor is requesting payment for any portion of the work.

1.12. Changes.

1.12.1. Owner hereby reserves the right at any time and from time to time, by written order (hereinafter referred to as a "Change Order") to Contractor, to make changes in the Contractor's Work as it, in its sole discretion, may deem necessary. All change orders requested by Contractor or third parties (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Contractor's Work must be submitted to Owner and Construction Manager. No work relating to any change order or the furnishing of materials in connection therewith shall be commenced prior to the receipt of Owner's written approval as to the change in costs and time for performance. Upon receiving Owner's written approval of the change in costs and time for performance, Contractor shall thereupon perform the changed Contractor's Work in accordance with the terms of this Agreement and the Change Order.

1.12.2. Upon request of Owner or Construction Manager, Contractor shall review all data presented to it by Owner or Construction Manager relating to a change in the Contractor's Work and shall upon the request of Owner or Construction Manager expeditiously submit a written proposal for any applicable price and time adjustment attributable to Owner's or Construction Manager's request for information relating to a change in the Contractor's Work, containing such detail and supporting documentation as Owner or Construction Manager may require.

1.12.3. When a Change Order is issued pursuant to a change required by Owner, the Contract Sum shall be adjusted by the net amount of any direct savings and direct cost (as such terms are hereinafter defined) and the costs incurred with respect to any design changes. In addition, if the change results in a net increase or net decrease in cost, the Contract Sum shall further increase or decrease by an amount equal to three percent (3%) (as full compensation to Contractor for its profit, overhead, insurance and all general conditions associated with the Change Order) multiplied by such net cost increase or decrease. As used in this Agreement, Contractor's direct savings and direct costs shall mean and be limited to the aggregate of the cost incurred or savings resulting from the addition or

deletion of the following items: (i) materials, including sales tax and cost of delivery; (ii) labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; (iii) workers' compensation insurance; (iv) bond premiums if and to the extent actually increased; and (v) actual rent not greater than the rent charged in the locale for the reasonable value of equipment and machinery owned by Contractor; provided, however, Contractor's overhead shall not be reduced as a result of a deductive change order.

1.12.4. If the parties are unable to agree upon the amount of the adjustment to the Contract Sum and the extent of any time adjustment, Owner may issue a directive to Contractor directing such Contractor's Work to be performed by Contractor, and any adjustments shall be subject to ultimate determination in accordance herewith; provided, however, Contractor shall, nonetheless, proceed immediately with the changed Contractor's Work. Contractor shall keep a detailed account of the direct savings and direct costs due to the changed Contractor's Work separately from its other accounting records and shall make such records available to Owner at Owner's request. In addition, any additional Project cost savings that is derived from subcontractor negotiation or buy-out shall not reduce the Contract Sum. Failure to keep adequate and separate cost records of the changed Contractor's Work and original Contractor's Work, and to furnish same to Owner upon its request, shall constitute an acceptance on Contractor's part of any determination then made by Owner of the direct savings and direct costs of such changed Contractor's Work and/or original Contractor's Work. In no event shall Contractor proceed with changed Contractor's Work without a Change Order or a directive issued pursuant to this Section 1.12 and Owner shall not be liable for any additional costs incurred or delays encountered in the performance of such changed Contractor's Work without such a written Change Order. Contractor shall not make any change in the Contractor's Work other than as set forth in a Change Order. All changes to the Contractor's Work shall be deemed a part of the Contractor's Work and shall be governed by this Agreement.

1.12.5. All change orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Project or any plans or specifications must be submitted to Owner and Construction Manager. All change order requests shall be in writing. No work relating to any change order or the furnishing of materials in connection therewith shall be commenced prior to the receipt of Owner's written approval. (The Construction Manager is not authorized to approve any change orders or adjustments to the Contract Sum.)

1.13. Authority. Owner shall have the authority to reject Contractor's Work which does not conform to the Contract Documents. Whenever, in the reasonable opinion of the Owner, it is necessary or advisable to ensure the proper implementation of the intent of the Contract Documents, it will have authority to require special inspection or testing of the Contractor's Work.

1.14. Means, Methods and Techniques. The means, methods, techniques, sequences, procedures and safety measures utilized in the performance of the Contractor's Work are the sole responsibility of Contractor. Any means, method, technique, sequence or procedure set forth in the Contract Documents is solely to specify the desired end result; and if the means, method, technique, sequence or procedure will not result in the desired end result or is unsafe or illegal, it is Contractor's responsibility to select a correct means, method, technique, sequence or procedure. Nothing in the review of the general quality and progress of the Contractor's Work, including review of submittals and work by the Construction Manager, shall be construed as the assumption of authority for administration or supervision over the performance of the Contractor's Work.

1.15. Contractor's Work Schedule.

1.15.1. Contractor, working with the Construction Manager, has heretofore prepared and submitted to Owner an estimated Contractor's Work Schedule for the Contractor's Work, which is attached to this Agreement as Exhibit "D" (hereinafter referred to as the "Contractor's Work Schedule"). Owner's review of the Contractor's Work Schedule and the monthly schedules described in Paragraph 1.15.3 hereof shall not indicate approval or disapproval thereof, it being understood that the interrelation and scheduling of trades and subcontracts is the obligation of Construction Manager and the Contractor, with the obligation of Owner being limited to an authorization of the date of commencement of construction, Project Milestones, and a confirmation of a proposed date of Completion of the Contractor's Work. The Contractor's Work Schedule relates to the Contractor's Work and indicates the estimated dates for the starting and completion of the various stages thereof.

1.15.2. The Contractor's Work Schedule shall be a logic network prepared in the critical path method or other sequential network in use within the construction industry and shall depict: (i) a sequence of operations mutually agreeable to Construction Manager and Contractor (including lead time activities, drawing and Sample submissions, bidding, awarding subcontracts, manufacturing and shipping); (ii) the dates of starting and finishing of each of the various stages of the Contractor's Work (the Project Milestones); and (iii) delivery dates for materials and equipment. The Contractor's Work Schedule includes a complete itemized breakdown of the Contractor's Work. It shall be Construction Manager and Contractor's responsibility to use its best efforts and to act with due diligence to maintain the progress of the Contractor's Work in accordance with the Contractor's Work Schedule. Notwithstanding any other provisions hereof to the contrary, the time for completion may be extended only by a written Change Order executed by Owner and Construction Manager.

1.15.3. Contractor, working with the Construction Manager, shall submit to Owner and Construction Manager, an updated Contractor's Work Schedule on a monthly basis. Such schedules shall be submitted to Owner and Construction Manager on forms provided or approved by Owner on or before the tenth (10th) day of each calendar month. Such monthly schedules shall: (i) depict the current progress of the Contractor's Work; (ii) indicate methods of overcoming any past delay with detail satisfactory to Owner and Construction Manager.

1.16. Shop Drawings and Samples.

1.16.1. Contractor shall review, approve and submit to Owner and Construction Manager with reasonable promptness and in orderly sequence, consistent with the Contractor's Work Schedule (as defined above), shop drawings and samples for all materials and equipment required by the Contract Documents. Shop drawings and samples shall be properly identified as specified or as Owner may require. At the time of submission, Contractor shall inform Owner and Construction Manager in writing of any deviation in the shop drawings or samples from the requirements of the Contract Documents and any deficiency thereof relating to a defect in or incomplete design discovered by Contractor.

1.16.2. Contractor shall make any change or corrections required by Owner and Construction Manager and shall resubmit the required number of corrected copies of shop drawings or new samples, until acceptable. If Contractor determines any change or correction required by Owner or Construction Manager shall result in an increase in the Contract Sum or extension of the applicable Completion Date, it shall notify Owner and Construction Manager of the need for such change with five (5) days of request for such change, otherwise such changes or corrections shall be accomplished without any increase in the Contract Sum or extension of the applicable Completion Date.

1.16.3. Owner is to have final choice in all items originally specified in multiple choice or in the manner of "or other equal thereto". Contractor shall provide any resulting cost consequence information to Owner. All costs to contiguous and adjacent portions of the Contractor's Work occasioned by such choice or by approval of substitutions offered or requested by Contractor are to be borne by Contractor. When two (2) or more products are specified for an item of work, any one (1) thereof shall be deemed acceptable. When only one (1) product is specified and either the term "or equal" is used in connection with the product or no product is specified, then Contractor may offer for Owner's and Construction Manager's review a substitute product which will completely accomplish the purpose of the Contract Documents. Contractor shall offer for Owner's and Construction Manager's review a substitute product which will completely accomplish the purpose of the Contract Documents in the event that the specified product is not available or will not produce the desired result. Requests for substitution of products, materials or processes other than those specified will be deemed a warranty by Contractor submitting same, and shall be accompanied by evidence to support such warranty, that the proposed substitution: (i) is equal in quality and serviceability to the specified item; (ii) will not entail changes in detail and construction of related work; and (iii) will not provide a cost disadvantage to Owner. The aforesaid warranty shall not be deemed to warrant the required design or artistic effect of such substitution. Contractor will furnish with its request such drawings, specifications, samples, performance data and other information as may be required of it to assist Owner in determining whether the proposed substitution is acceptable. The burden of proof of the fact above stated shall be upon Contractor; however, the final decision shall be that of Owner, which decision shall be consistent with the intent of the Contract Documents.

1.16.4. No portion of the Contractor's Work requiring submission of a shop drawing or sample shall be commenced until the submission has been reviewed by Owner and Construction Manager and submitted to

Owner and Construction Manager. All such portions of the Contractor's Work shall be in accordance with approved shop drawings or samples. Contractor shall maintain at the Premises a complete and up-to-date file and status schedule of all approved and unapproved shop drawings and samples.

1.16.5. Contractor shall maintain at the Premises for Owner one (1) copy of all drawings, specifications, addenda, approved shop drawings, Change Orders and other modifications, in good order and marked to record all changes made during construction. These documents, marked to record all changes made during construction, shall be available to Owner and Construction Manager and shall be delivered to Owner and Construction Manager as a condition precedent to Completion of the Contractor's Work.

1.16.6. Contractor shall be responsible for the repair of all damage to the Contractor's Work caused by Contractor except to the extent covered by insurance. All repair, cutting, fitting or patching of the Contractor's Work that may be required to correct any such damaged Contractor's Work to make its several parts fit together properly, shall be promptly done by the trade whose work is to be cut, fit or patched in a manner that will not endanger the Contractor's Work and will leave same in good condition, and shall be paid for by Contractor. Notwithstanding the foregoing, structural members shall not be cut except upon written authority of the Owner. Contractor's Work done contrary to such authority is at the risk of Contractor, subject to replacement at its own expense and without reimbursement under the Agreement. Permission to patch any areas or items of work shall not constitute a waiver of the right to require complete removal and replacement of said areas or items of work, if, in the Owner's opinion, said patching does not satisfactorily restore quality and appearance of same.

1.17. Equipment.

1.17.1. Contractor shall prepare and submit to Owner and Construction Manager, as subcontracts or sub-subcontracts are let, comprehensive lists in duplicate of the manufacturer's products proposed for the Contractor's Work. Such lists shall include information on materials, equipment and fixtures as may be required for the Owner's and Construction Manager's preliminary review. Review of such lists of products shall not be construed as a substitute for the shop drawings, manufacturer's descriptive data and samples which are required by the Contract Documents, but rather as a base from which more detailed submittals shall be developed for the Owner's final review.

1.17.2. If deviations from the Contract Documents have been necessary, or if, in the expert opinion of Contractor, subcontractor, fabricator or installer, the application as shown deviates from normal and proper application as recommended by the manufacturer, or if job conditions have necessitated deviations from manufacturer's instructions or other minimum standards of good practice, and if such deviation has been agreed upon by Owner, fabricator and installer prior to the installation, then such deviations shall be recorded. Otherwise, the statement of application shall be submitted as specified without qualification.

1.17.3. Manufacturers' nameplates shall not be permanently attached to ornamental and miscellaneous metal work, doors, frames, millwork and similar factory-fabricated products, furnishings, equipment and accessories on which, in the opinion of Owner, the nameplates would be objectionable if visible after installation of the Contractor's Work. This does not apply to Underwriters' Laboratories' labels, where required.

1.17.4. Each major component of the mechanical and electrical equipment shall have the manufacturer's name, address, model number and rating on a plate securely affixed in a conspicuous place, as required in the mechanical and electrical sections of the specifications.

1.17.5. All manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the manufacturer's written specifications or instructions except as otherwise specified herein. Contractor shall furnish to Owner and Construction Manager five (5) copies of such specifications or instructions as may be required in the technical sections of the specifications before proceeding with the Contractor's Work.

1.17.6. In case of any differences or conflicts between the requirements of the manufacturer's instructions or specifications and the technical sections of the specifications, the instructions or specifications having the more detailed and precise requirements which are specifically applicable to the work in question, as determined

by Owner, shall govern. Contractor shall assign or have assigned to Owner any and all manufacturer's warranties with respect to any item of equipment or material for which such warranty was issued.

1.18. Operation and Maintenance Instructions. Contractor shall furnish to the Owner and Construction Manager, complete sets of manuals, containing the manufacturers' instructions for maintenance and operation of each item of equipment and apparatus furnished under the Contract Documents and any additional data specifically required under the various sections of the specifications for each division of the Contractor's Work. The manuals shall be arranged in proper order and indexed. At Substantial Completion, Contractor shall certify and shall obtain and deliver to Owner and Construction Manager the certification of each subcontractor, by endorsement thereon, that warranties are complete and accurate. Prior to Contractor's application for final payment and as a condition precedent to Final Payment Contractor shall deliver the warranties and applicable as-builts, and submit them to Owner and Construction Manager.

1.19. Training. Contractor shall provide Owner and the Purchaser of all units in the Project with training relating to the operation and maintenance of all systems in the Project.

ARTICLE II

Payment

2.1. Progress Payments. Provided Contractor shall not be in default in the performance of any provision of this Agreement to be performed by Contractor, Contractor shall receive in payment of its performance hereunder an amount equal to the Contract Sum. Payments shall be made in monthly installments as the Contractor's Work progresses. On the 25th day of each month, Contractor shall submit to Owner a written requisition in an approved form for payment showing the proportionate value in relation to the total price herein of the Contractor's Work theretofore performed, from which shall be deducted a reserve of ten percent (10%) until the Contractor's Work is fifty percent (50%) complete. After the Contractor's Work is fifty percent (50%) complete, the reserve held on both the Contractor and his subcontractors may be reduced to five percent (5%).

The balance of the requisition (after deducting reserves as above provided), to the extent approved by Owner or its agent, shall be payable to Contractor within thirty (30) days after such approval. Each requisition for payment shall be accompanied by a sworn statement of Contractor listing the total amount of Contractor's Work performed and material supplied by Contractor and all of its subcontractors and material suppliers; the amount of previous payments; a breakdown allocating the total payments to Contractor, its subcontractors and material suppliers; any amount charged for overhead and profit; the amount of the aforesaid reserve; and the balance to complete the Contractor's Work. Said statement shall be accompanied by waivers of lien of Contractor, its subcontractors and material suppliers in the total amount of all payments to be made in accord with the laws of the state where the Premises are located, and shall be acceptable to Owner and any disbursement agent or title insurance company acting on Owner's behalf and Lender. Evidence of clear title to all personal property, equipment and fixtures shall be presented to Owner prior to any payment therefor. The Contractor may, at its cost, if any, arrange for the Title Company to approve all such documentation on an "after-the-fact" waiver approval method where all documentation is delivered and reviewed thirty (30) days after payment to Contractor and the escrow shall permit same. Notwithstanding this procedure, the Escrow shall provide for a date down endorsement giving mechanic's lien coverage in the full amount of each draw at the time the funds are paid to Contractor. Owner may at its discretion make any applicable portion of any payment not in dispute between Contractor and any applicable subcontractor to any subcontractor or through any applicable title insurer or payout agent, or both; provided, however, that no contractual relationship shall be construed as a result of any such direct payment. If such payments are not made directly to any subcontractor, Contractor shall make the requisite payment to all subcontractors within thirty (30) days of receipt thereof, failing which, Contractor shall thereupon return to Owner any portion of any payment not so paid to a subcontractor. Unless payments are made to a subcontractor directly by Owner, Owner shall be under no obligation to pay or insure payment to subcontractors, such obligation to be that of Contractor. Simultaneously, and as a condition to receiving the last payment of the Contract Sum due hereunder, Contractor shall deliver to Owner a final sworn contractor's statement and final waivers of lien of Contractor, its subcontractors and material suppliers sufficient to waive and release any and all claims of compensation due or to become due in consideration of the Contractor's Work.

All payments to Contractor may, at Owner's sole option, be made through a construction escrow with a title insurance company designated by Owner (hereinafter referred to as the "Title Company"). The escrow shall be on terms and conditions of the Title Company's standard construction escrow modified to conform to this Agreement and acceptable to Owner. All of the documentation required by this Section 2.1 shall be delivered to and reviewed by the Title Company and subject to the reasonable approval of the Title Company.

2.2. Reserve. Payment of the reserve shall be made to Contractor within thirty (30) days after Substantial Completion, in accordance with the terms of this Agreement and all warranty materials and as built surveys, plans and specifications have been submitted to Owner in a form acceptable to Owner.

2.3. Final Completion.

2.3.1. Within ten (10) days of receipt of written notice from Contractor that the Contractor's Work is complete and ready for final inspection and acceptance, Owner shall make such inspection, and if Owner finds that the Contractor's Work and other obligations of Contractor are fully completed, then Owner shall, within five (5) days thereafter, either signify its acceptance in writing to Contractor stating that there has been completion of work and it is acceptable to Owner under the terms and conditions of the Contract Documents, or notify Contractor in writing as to the reason or reasons why Owner refuses to accept the Contractor's Work. The date of issuance of the written notice of acceptance shall be designated as the date of Completion of the Contractor's Work. Prior to final payment of the Contract Sum, Contractor shall fully demonstrate the use and function of each system or piece of equipment included in the Contractor's Work. A final application for payment may be made upon Substantial Completion, provided that no mechanic's liens are in effect.

2.3.2. If Completion of the Contractor's Work has occurred, but minor items remain to be performed, Owner shall issue its acceptance of the Contractor's Work, subject to such items listed on the Punch List which shall be set forth in the notice of acceptance as provided in Paragraph 2.3.1 above, and one hundred twenty five percent (125%) of the cost of such incomplete items (as determined by Owner and Contractor) shall be retained by Owner. The amount so retained shall become due and payable to Contractor from time to time as said items listed have been completed, Owner's inspection shall confirm such to be correct and Contractor shall submit an application for payment with respect to such items. If such items are not completed within sixty (60) days after Substantial Completion of the Contractor's Work, Owner may, in its sole discretion, cause same to be completed by such persons or entities as Owner shall choose, and the cost of same shall be paid by Contractor or deducted, to the extent possible, from any sums then due Contractor hereunder.

2.3.3. Payment upon Substantial Completion is subject to receipt from Contractor and approval by Owner and Lender of final documents of similar nature to those required by the Contract Documents for any monthly payment hereunder, together with the following:

2.3.3.1. all final permits, approvals, certificates and authorizations for use and occupancy of the completed Contractor's Work required by any authority having jurisdiction, including necessary occupancy and use permits, and all sets of drawings which were stamped and approved by any applicable governmental agency;

2.3.3.2. one (1) electronic copy of formally prepared "as-built" drawings, records and related data including all field notes of all the work in pdf and ACAD (if applicable) format

2.3.3.3. all operating manuals, parts lists, Contractor's lists, and repair source lists;

2.3.3.4. all guarantees and warranties to which Owner is entitled hereunder;

2.3.3.5. satisfactory proof that all liens and claims relating to the Contractor's Work have been paid and released or bonded over to Owner's reasonable satisfaction;

2.3.3.6. acknowledgment of prior payments and waivers of lien from all subcontractors and Contractor or delivery of bonds or other security reasonably satisfactory to Owner;

2.3.3.7. Architect's certificate certifying Substantial Completion;

2.3.3.8. written statement from the Owner that all practical orientation and physical operating instructions for all materials, systems and equipment have been satisfactorily completed;

2.3.3.9. satisfactory evidence that all mechanical systems have been and are properly balanced, if applicable;

2.3.3.10. copies of all tests required under Section 1.11 hereof;

2.3.3.11. all practical orientation and physical operating instructions for all materials, systems and equipment have been satisfactorily completed.

2.3.4. Neither the final payment nor the remaining reserve shall become due until Contractor submits to Owner (i) consent of any surety to final Payment; (ii) if required by Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as may be designated by Owner; and (iii) a final date down endorsement of the Owner's policy of title insurance, issued by the Title Company, increasing the coverage thereunder by the amount of the final Contract Sum as adjusted by net change orders. If any subcontractor refuses to furnish a release or waiver required by Owner, Contractor may furnish a bond satisfactory to Owner to indemnify it against any such lien. If any such lien remains unsatisfied after all payments are made, Contractor shall refund to Owner all monies that the latter may be compelled to pay in discharging such lien, including all costs, expenses and reasonable attorneys' fees.

2.3.5. Completion of any part of the Contractor's Work shall be deemed to occur only after final inspection by Owner, as set forth above, and when all requirements of the Contract Documents with respect to the Contractor's Work have been completed. Upon Completion of such Contractor's Work and issuance of the certificates, permits and other items described above, Owner may take over the Contractor's Work for occupancy and use thereafter.

2.4. Additional Compensation. Contractor shall not be entitled to receive any extra compensation of any kind whatsoever, for extra or additional work of any kind, unless the same was ordered by Owner in writing, signed by the authorized representative of Owner. Contractor specifically agrees that it will make no claim that it was authorized to do any extra work or make any modification to the Contractor's Work in the absence of such written order. The Contract Sum is the full and total remuneration and consideration to be paid to Contractor for the performance of the Contractor's Work.

2.5. Royalties. Contractor agrees to pay all royalties and license fees and to indemnify and hold harmless Owner and its agents from loss or damage or expense to which they may be put as a result of claims made or litigation on account of alleged violation or infringement of any royalties, patents or patented rights arising out of the Contractor's Work, methods, materials or things used by Contractor.

2.6. Withholding of Payment. Owner hereby reserves the right to withhold payment, to the extent necessary, to protect itself from loss due to any of the following: (i) defective work; (ii) evidence indicating the probable filing of claims by other parties against Owner or its agents in connection with this Agreement; (iii) failure of Contractor to pay any of its subcontractors or material suppliers within the time periods provided in this Agreement; and (iv) damage caused by Contractor or any subcontractor of Contractor to Owner or its agent or representatives unless covered by insurance.

ARTICLE III **Contractor's Liability**

3.1. Assumption of Liability. To the extent permitted by applicable law, Contractor assumes the entire responsibility and liability for, and agrees to hold Owner and Owner's Lender and Construction Manager and their agents, employees, partners, beneficiaries and anyone else acting on behalf of any of the foregoing (all of said parties are hereinafter sometimes collectively referred to as "Indemnitees"), harmless from, any and all damage or injury of any kind or nature whatsoever (including death resulting therefrom) to all persons whether employees of Contractor

or otherwise, and to all property (including loss of use thereof) to the extent caused by, resulting from, arising out of or occurring in connection with the execution of the Contractor's Work, and all damage, direct or indirect, of whatsoever nature, to the extent resulting from the performance of the Contractor's Work. If any person shall make a claim for any damage or injury (including death resulting therefrom) as hereinabove described, whether such claim be based upon any alleged active or passive negligence or participation in the wrong or upon any alleged breach of any statutory duty, administrative regulation (whether non-delegable or otherwise) or obligation on the part of an Indemnitee or its agents, or otherwise, Contractor agrees to indemnify and save such Indemnitee harmless from and against all losses and all liabilities, expenses and other detriments of every nature and description (including attorneys' fees), to which the Indemnitee may be subjected by reason of any act or omission of Contractor or of any of Contractor's subcontractors, employees, agents, invitees or licensees, to the extent such loss, liability, expense or other detriment arises out of or is in connection with the performance of Contractor's Work, including, but not limited to, personal injury and loss of or damage to property of the Indemnitee or others. Contractor agrees to assume on behalf of the Indemnitee or its agents or contractors the defense through counsel of any action at law or equity which may be brought against any of such parties upon such claim and to pay on behalf of same upon demand the amount of any judgment which may be entered against any of such parties in any such action. The obligation under this paragraph shall be continuing and shall not be diminished by any approval or acceptance of or payment for work by Owner or its agents.

Without limiting the generality of the foregoing, the indemnity hereinabove set forth shall include all liability, damages, loss, claims, demands and actions on account of personal injury, death or property loss to any Indemnitee and any of Indemnitee's employees, agents, contractors, licensees or invitees, whether based upon or claimed to be based upon, statutory (including, without limitation, workers' compensation), contractual, tort or other liability of any Indemnitee, contractor or subcontractor or any other persons. The provisions of this indemnification paragraph shall not be construed to indemnify any Indemnitee for any loss or damage attributable to the willful or solely negligent acts or omissions of such Indemnitee or to eliminate or reduce any other indemnification or right which an Indemnitee may have by law; however, the provisions of this indemnification paragraph shall be construed to indemnify any Indemnitee for acts or alleged acts of contributory negligence.

3.2. Employees. Contractor and all subcontractors agree to assume the entire liability for all personal injury and claims of personal injury suffered by their own employees injured in connection with the Contractor's Work. To the extent permitted by law, Contractor and all subcontractors agree to indemnify, hold harmless and defend Owner and Construction Manager and their agents, contractors and employees from and against any and all loss, expense, damage or injury, including court costs and reasonable fees of counsel sustained as a result of all such personal injury and claims of personal injury arising as a result of any act or omission of Contractor, any subcontractor or anyone acting on behalf of Contractor.

3.3. Indemnity. In addition to the provisions of Section 3.1 above, Contractor agrees to protect, defend, indemnify and save harmless Owner and Construction Manager and their officers, directors, partners, employees, contractors, subcontractors and agents from all liabilities, costs, damages, fees and expenses arising out of or connected with the activities of Contractor and its representatives, including, but not limited to, mechanics' liens, damage to the Project, delays in construction, and injury to persons or property resulting from such activities in connection therewith, and the cost of any repairs to the Project necessitated by activities of Contractor or its subcontractors, except to the extent arising from Owner's written directions to Contractor or otherwise directly attributable to Owner's or Construction Manager's supervision and control of the Contractor's Work. Contractor acknowledges that the foregoing indemnities shall be in addition to any insurance requirements and shall not be in discharge of or in substitution for same.

ARTICLE IV

Insurance

4.1. Type of Insurance. Contractor shall purchase and maintain the following insurance issued in amounts required by law but in no event less than those specified below and no Contractor's Work shall be commenced under this Agreement until Contractor shall have obtained all requisite insurance and Owner shall have approved of same:

4.1.1. Workers' Compensation coverage providing Statutory benefits, which shall not exclude coverage for proprietors, partners, members or executive officers, covering all employees who are to provide service under this Agreement and Employer's Liability coverage in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) each accident or illness, which policy shall also contain a provision providing for a waiver of subrogation in favor of the Owner and Construction Manager and any mortgage lender of Owner, and any of their officers, directors, members, partners and employees.

4.1.2. Commercial General Liability Insurance or equivalent (primary or umbrella) on a per project, occurrence basis with limits of not less than Ten Million and 00/100 Dollars (\$10,000,000) per occurrence and in the aggregate for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations that shall be renewed and maintained until the exposure period under the Wisconsin Statute of Limitations and Repose applicable to the Contractor's Work have run, explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). Owner and any mortgage lender of Owner and Construction Manager are to be named as additional insureds per endorsements equivalent of ISO CG2038 (04/13) and CG2037 (04/13) on a primary, non-contributory basis for any liability arising directly or indirectly from the Contractor's Work.

4.1.3. When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, Contractor shall provide Automobile Liability Insurance or equivalent (primary or umbrella) with limits of not less than Two Million and 00/100 Dollars (\$2,000,000) combined single limits bodily injury and property damage. Owner and any mortgage lender of Owner and Construction Manager are to be named as additional insureds on a primary, non-contributory basis.

4.1.4. When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Contractor shall cause the applicable parties to provide and maintain Professional Liability Insurance covering acts, errors, or omissions with limits of not less than One Million and 00/100 Dollars (\$1,000,000) each Claim and One Million and 00/100 Dollars (\$1,000,000) aggregate. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

4.1.5. When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance shall be maintained by Contractor or Contractor shall require the applicable parties to provide the same in an amount to insure against any loss whatsoever, and has limits sufficient to pay for the re-creations and reconstruction of such records.

4.1.6. Contractor will furnish Owner, Construction Manager and any mortgage lender of Owner Certificates of Insurance evidencing the required insurance. Any and all deductibles or self-insured retentions on referenced insurance coverages shall be borne by Contractor. Contractor expressly understands and agrees that any coverages and limits furnished by Contractor shall in no way limit Contractor's liabilities and responsibilities hereunder or at law. Contractor expressly understands and agrees that Contractor's insurance is primary and any insurance or self-insurance programs maintained by Owner or any mortgage lender of Owner or Construction Manager shall not contribute with insurance provided by Contractor. The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law. All subcontractors shall be subject to the same requirements of Contractor.

4.1.7. Contractor hereby waives on its own behalf and that of its insurance carriers any claim of subrogation against the Owner and any mortgage lender of Owner and Construction Manager, and any of their officers, directors, members, partners and employees with respect to any claims or causes of action of any nature whatsoever covered under the workers' compensation and employers liability insurance, commercial general liability insurance and automobile liability insurance policies referred to above in subsections 4.1.1, 4.1.2, and 4.1.3 hereof. Contractor shall, in its contract documentation with all subcontractors, on its own behalf and that of its insurance carriers, waive any claim of subrogation against Owner and any mortgage lender of Owner and Construction Manager relating to matters covered by the subcontractor's requisite insurance coverage.

4.2. Property Insurance. The Owner shall provide, at its cost, a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss. This insurance shall be written to cover all risks of physical loss to the Project, except those specifically excluded by the policy, and shall insure at least against the perils of fire, lightning, explosion, windstorm, hail, smoke, vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, and wind. The Owner shall be solely responsible for any deductible amounts.

4.3. Requirements of Insurers. Contractor shall comply with all requirements of the insurers issuing the aforesaid policies. The carrying of any of the aforesaid insurance shall not be interpreted as relieving Contractor from any obligation hereunder.

4.4. Subcontractor Insurance. Contractor shall require all subcontractors to obtain and maintain separate coverage in compliance with the provisions of Section 4.1., but with such reasonable limits as required by Owner. Each of the aforesaid policies of Contractor and all subcontractors shall (i) be considered primary insurance without recourse to any other similar insurance held by Owner or any mortgage lender of Owner or Construction Manager; and (ii) include Owner and any mortgage lender of Owner and Construction Manager as additional insured as required above. Upon Owner's request and within five (5) business days thereafter, Contractor will furnish Owner Certificates of Insurance evidencing the required subcontractor insurance. In the event that a subcontractor is not in compliance with their insurance requirements, the Contractor's insurance shall be responsible for the subcontractor's uninsured liabilities, actions or injuries.

4.5. Tools and Equipment.

4.5.1. Owner shall not be responsible for, nor shall it insure, the property of Contractor, including, but not limited to, tools and equipment located at the Premises. Contractor and its subcontractors shall be responsible for providing theft or other insurance to protect its interest in materials in transit or in storage off the Premises.

4.5.2. Contractor shall maintain Contractors Equipment Floater Insurance for owned or leased equipment under its care, custody and control as required for the performance of Contractor's duties. Such insurance shall be for the sole benefit of Contractor.

4.6. Notice of Cancellation. All insurance obtained by Contractor as herein required shall contain a provision that coverages afforded under said policies shall not be cancelled, non-renewed or materially changed without at least sixty (60) calendar days' written notice to Contractor. In the event of cancellation, non-renewal or material change, Contractor agrees to provide Owner written notice of such change within seven (7) calendar days of the Contractor being put on notice. All insurance to be provided by Contractor under Article IV hereof shall be underwritten with responsible insurance carriers rated not less than a Best's rating of "AX" and otherwise satisfactory to Owner and licensed to do business in the state where the Premises is located.

4.7. Certificates. Before commencing any Contractor's Work on the Project, Contractor shall require all insurance companies issuing any policies of insurance to Contractor which Contractor is required to procure hereunder, to certify to Owner and any mortgage lender of Owner and Construction Manager in writing in a form satisfactory to Owner that such policies have been issued and are in force. In addition to confirming insurance coverages, the Contractor's insurance certificate shall also evidence additional insured endorsements, waivers of subrogation, and that the Contractor's insurance is primary and noncontributory with any insurance maintained by the Owner and any mortgage lender of Owner and Construction Manager, all as further provided in this Article IV and in Exhibit "G" of this Agreement under "Description of Operations/Locations/Vehicles". Prior to the expiration of any such certificate, a new certificate must be furnished to the Owner and any mortgage lender of Owner and Construction Manager showing the continuing required coverages. Contractor shall not cancel any policies of insurance required hereunder, either before or after completion of the Contractor's Work, without the consent in writing of Owner. Copies of required endorsements shall be provided to the Owner by the Contractor upon request of the Owner. The Owner shall have the right at any time to demand that the Contractor furnish its actual policies of insurance, in which event Contractor shall furnish Owner with same within (15) days of such demand.

4.8. Other Insurance Requirements. The receipt of any Certificate does not constitute agreement by Owner that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated

on the Certificate are in compliance with all Agreement requirements. The failure of Owner to obtain Certificates or other insurance evidence from Contractor shall not be deemed to be a waiver by Owner. Contractor shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and Owner retains the right to terminate this Agreement until proper evidence of insurance is provided. Any and all deductibles or self-insured retentions on referenced insurance coverages required of Contractor shall be borne by Contractor. Contractor expressly understands and agrees that any coverages and limits furnished by Contractor shall in no way limit Contractor's liabilities and responsibilities specified within this Agreement or by law. Contractor expressly understands and agrees that Contractor's insurance is primary and any insurance or self-insurance programs maintained by Owner or any mortgage lender of Owner or Construction Manager shall not contribute with insurance provided by Contractor under the Agreement. The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law. Owner maintains the right to modify, delete, alter or change the insurance requirements, from time to time, so long as any such change does not increase the requirements set forth herein.

To the extent there are any inconsistencies or conflicts in the insurance provisions set forth in this Article IV with the insurance provisions set forth in the Plans, the terms and conditions of this Article IV shall govern.

ARTICLE V

Termination

5.1. **Termination by Owner.** If Contractor: (i) should fail to perform the Contractor's Work with reasonable promptness and diligence, or should fail or refuse to supply sufficient skilled workmen or materials of the proper quality, and should Contractor fail to cure same within seven (7) days after written notice from Owner to Contractor, or (ii) should fail to make prompt payment to subcontractors or for material or labor pursuant to the provisions hereof, or should Contractor become insolvent or be unable to pay its debts as they mature, or make a general assignment for the benefit of creditors, or if a receiver should be appointed for the whole or any substantial part of Contractor's property, or if Contractor should file a petition in bankruptcy or be adjudicated a bankrupt, or should any proceedings be filed under the Bankruptcy Act, either voluntary or involuntary, and such appointment or bankruptcy or insolvency proceedings, petition or assignment is not set aside within thirty (30) days, or if Contractor defaults in the performance of any provision of this Agreement then, in any such event, Owner may, in addition to all other rights and remedies provided by law, terminate this Agreement by giving written notice to Contractor and, without prejudice to other rights or remedies provided by law or by this Agreement, may take possession of the Premises and of all or any part of the materials or equipment delivered or in transit to the Premises and finish the Contractor's Work by whatever method it may deem expedient. In the event of such termination, Contractor shall be paid for unpaid authorized costs of work prior to termination, subject to Owner's approval in the manner specified in this Agreement, minus any additional costs incurred by Owner resulting from such termination.

5.2. **Remedy by Owner.** If Contractor, or any subcontractor, defaults or neglects to carry out the Contractor's Work in accordance with the Contract Documents, and fails after notice to Contractor, to commence and continue, correction of such default or neglect, with diligence and promptness Owner may correct or cause the correction of such deficiencies. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due Contractor, the amount deemed necessary by Owner to correct such deficiencies. If the payments then or thereafter due to Contractor are not sufficient to cover such amount, Contractor shall immediately pay the difference to Owner.

5.3. **Termination by Contractor.** Should Owner default in its obligations hereunder and should it fail to cure same within seven (7) days after written notice from Contractor to Owner, Contractor may, at its sole and exclusive remedy hereunder, terminate this Agreement. Upon such a termination, Contractor shall be entitled to recover from Owner, full payment for all work performed to the date of such termination along with a reasonable amount for overhead and profit.

5.4. **Termination for Convenience.** Owner shall have the right exercisable in Owner's sole discretion on written notice to the Contractor to terminate this Agreement for convenience. After the giving of such notice from the Owner to the Contractor, the Owner shall only be obligated hereunder to pay the Contractor for the Contractor's Work already performed and/or delivered to the Owner at the Premises, and only if such Contractor's Work is otherwise

acceptable under the terms and conditions of this Agreement. Upon Owner's giving of said notice, Contractor shall discontinue performance and/or delivery of the Contractor's Work under this Agreement. Other than Owner's obligation to pay the Contractor for the Contractor's Work performed prior to the Owner giving the notice of discontinuance of the Contractor's Work, the Owner shall have no further obligation to the Contractor for payment for such cancelled Contractor's Work, or to pay Contractor for any anticipated profits on the unperformed Contractor's Work, or other direct or indirect damages relating to such cancelled Contractor's Work. All of the warranty and other obligations of the Contractor under the terms of this Agreement with respect to the performance and/or delivery of the Contractor's Work which has been accepted by the Owner shall remain in full force and effect in the event of such termination for convenience.

ARTICLE VI
Bids and Subcontractors

6.1. **Subcontractors**. The identity of any subcontractors shall be subject to the approval of Owner and shall consist of the subcontractor submitting the lowest responsible bid who can complete the Contractor's Work in a timely manner and in accordance with the related provisions in Section 1.12.4.

6.2. **Contracts**. Upon Owner's request, Contractor shall submit copies of each contract with any subcontractor to Owner within ten (10) business days prior to the execution thereof and fully executed copies of the approved contracts and subcontracts shall be provided to Owner within five (5) days of the execution thereof.

ARTICLE VII
Access

7.1. **Owner's Access**. During the performance of the Contractor's Work, Owner and Construction Manager shall have the right to inspect the Project to monitor the progress of construction and Contractor's and each subcontractor's compliance with this Agreement.

7.2. **Contractor's Access**. Contractor shall be permitted access to the applicable portion of the Project reasonably designated by Owner or Construction Manager for the performance of the Contractor's Work only if they comply with all of the terms and conditions of this Agreement.

ARTICLE VIII
Third Party Contractors

8.1. **Owner's Right to Perform Construction and to Use Third Party Contractors**.

8.1.1. Owner reserves the right to perform construction or operations related to the Project, and/or award work to parties other than the Contractor, such as Riley Construction Company, Inc. ("Third Party Contractors"), in connection with other portions of the Project or other construction or operations on the Premises under conditions of the contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If Contractor claims that delay or additional cost is involved because of such action by Owner, Contractor shall make such a request for a Change Order. Owner agrees to not unreasonably interfere with Contractor's activities. Contractor agrees to plan and coordinate its activities so as not to interfere with the Owner's Third Party Contractor's activities.

8.1.2. Contractor shall provide for coordination of the activities of Owner's own forces and of each Third Party Contractor with the Contractor's Work of Contractor, who shall cooperate with them. Contractor shall participate with Third Party Contractors and Owner in reviewing their construction schedules. Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by Contractor, Third Party Contractors and the other until subsequently revised.

8.2. Mutual Responsibility.

8.2.1. Contractor shall afford Owner and Third Party Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate Contractor's construction and operations with theirs as required by the Contract Documents.

8.2.2. If part of Contractor's Work depends for proper execution or results upon construction or operations by Owner or a Third Party Contractor, Contractor shall, prior to proceeding with that portion of the Contractor's Work, promptly report to Owner apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of Contractor so to report shall constitute an acknowledgment that Owner's or Third Party Contractor's completed or partially completed construction is fit and proper to receive Contractor's Work, except as to defects not then reasonably discoverable.

8.2.3. Owner shall be reimbursed by Contractor for costs incurred by Owner which are payable to a Third Party Contractor because of delays, improperly timed activities or defective construction of Contractor. Owner shall be responsible to Contractor for costs incurred by Contractor because of delays, improperly timed activities, damage to the Contractor's Work or defective construction of a Third Party Contractor.

8.2.4. Contractor shall promptly remedy damage wrongfully caused by Contractor to completed or partially completed construction or to property of Owner or Third Party Contractors.

8.3. Owner's Right to Clean Up. If a dispute arises among Contractor, Third Party Contractors and Owner as to the responsibility under their respective contracts for maintaining the Premises and surrounding area free from waste materials and rubbish, Owner may clean up and allocate the cost among those responsible.

ARTICLE IX
General Provisions

9.1. Assignment. This Agreement may not be assigned or encumbered by Contractor. Contractor shall be as fully responsible to Owner for the acts, omissions, materials and workmanship of its subcontractors and their employees as for the acts, omissions, materials and workmanship of Contractor. Nothing herein contained shall be deemed a waiver of any right of Contractor to enforce liability against a subcontractor of Contractor.

9.2. Notices. All written notices hereunder shall be deemed to be made properly if personally delivered or sent by a nationally-recognized overnight courier service or by registered or certified mail, return receipt requested, and addressed to the parties at the addresses heretofore set forth. The address may be changed by either party giving such notice. Notice shall be deemed received upon delivery or if delivery is refused upon attempted delivery.

9.3. Entire Agreement. This Agreement constitutes the entire agreement between Contractor and Owner relating to the Contractor's Work. Except as specifically provided herein, no modification, waiver, termination, rescission, discharge or cancellation of this Agreement or of any terms thereof shall be binding on Owner unless in writing and executed by an officer or employee of Owner specifically authorized to do so.

9.4. Waiver. No waiver, termination, discharge or cancellation of this Agreement or of any terms hereof or certificate, approval or payment made to Contractor, or use or occupancy of the Contractor's Work shall impair Owner's rights with respect to any liabilities, whether or not liquidated, of Contractor to Owner.

9.5. Governing Laws. This Agreement shall be construed in accordance with the laws of the State of Wisconsin.

9.6. Saving Clause. If any term or provision of this Agreement shall be found to be illegal, unenforceable or in violation of the laws, statutes, ordinances or regulations of any public authority having jurisdiction thereof by a court of competent jurisdiction, then, notwithstanding such term or provision, this Agreement shall be and remain in full force and effect and such term shall be deemed stricken; provided, however, this Agreement shall be interpreted, when possible, so as to reflect the intentions of the parties as indicated by any such stricken term or provision.

9.7. Joint Effort. The preparation of this Agreement has been a joint effort of the parties hereto and the resulting documents shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

9.8. Captions. The captions in this Agreement are for convenience only and shall have no bearing or effect upon the terms hereof.

9.9. Assignment by Owner. Owner may, by written notice to Contractor, assign this Agreement, and all of Owner's rights, benefits and unfulfilled obligations, if any, hereunder to an affiliate of the Owner or to a third-party purchaser of the Premises, provided that such assignee shall assume such unfulfilled, if any, obligations from and after the effective date of the assignment; provided, however, if Owner's assignment is a collateral assignment to a mortgage lender, then the mortgage lender assignee need not assume Owner's obligations unless and until the mortgage lender exercises its rights under said assignment. Provided, further, the Contractor agrees to join in a written consent to an assignment to a third-party purchaser or collateral assignment to a mortgage lender upon request of the Owner or the mortgage lender.

9.10. CPVC Pipe Products. Attached hereto as Exhibit "F" is a Notice on Use of CPVC Pipe Products and Verification of Compatibility. Contractor agrees to comply, and cause its subcontractors to comply, with the provisions thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be properly executed as of the day and year first above written.

OWNER:

TI Caledonia IV LLC, a Wisconsin limited liability company
By: Towne Realty, Inc., Manager

By: _____
Name: Chad Navis
Title: Vice President

CONTRACTOR:

Trinity Construction Company, Inc., a Wisconsin corporation

By: _____
Name: _____
Title: _____

EXHIBIT "A"
"Premises"

(SEE ATTACHED)
(CSM)

EXHIBIT "B"
PROJECT PLANS AND OUTLINE SPECIFICATIONS

(SEE ATTACHED)

EXHIBIT "C"
CERTIFICATE OF WARRANTY
(TO BE EXECUTED IN CONJUNCTION WITH SUBSTANTIAL COMPLETION)

Trinity Construction Company, Inc., a Wisconsin corporation ("**Contractor**"), subject to the provisions and limitations of this Certificate of Warranty ("**Certificate**"), hereby warrants ("**Warranty**") to the Owner and its successors and assigns ("**Owner**") and any of Owner's Tenant(s) and their successors and assigns ("**Tenant(s)**") that the Contractor's Work described on **Exhibit B**, which is attached to the Agreement Between Owner and Contractor, and made a part hereof (i) has been completed in a good and workmanlike manner, (ii) is free from defects arising out of faulty workmanship or materials, and (iii) has been constructed in accordance with the requirements of the plans and specifications described on **Exhibit B** of the Agreement and all applicable laws and ordinances (collectively (i), (ii) and (iii) the "**Condition(s)**"). Except as otherwise provided in the Agreement, Contractor's Warranty obligations under this Certificate are limited to the repair and replacement of any of the Condition(s), the existence of which is a breach of the Warranty. Contractor shall only be liable with respect to such Condition(s) if Contractor is notified in writing by Owner or Tenant(s) of such Condition(s) within (i) two (2) years after Substantial Completion, as defined in the Agreement, of the Contractor's Work on the Project described in the Agreement and (ii) if such Conditions involve latent defects, then within two (2) years of when the Owner or Tenant(s) knew or should have known of said defect(s). Contractor shall complete the repair or replacement of the Condition(s) within thirty (30) days after the giving of written notice of the existence of the Condition(s) to the Contractor by the Owner or the Tenant(s) (said period of time is hereinafter referred to as the "**Correction Period**"), provided; however, that if such repair or replacement cannot reasonably be completed within such thirty (30)-day Correction Period, then so long as Contractor promptly commences the repair and replacement of the Condition(s) and thereafter diligently pursues such repair and replacement to completion, the Correction Period shall be extended for a reasonable period of time which will not exceed sixty (60) days. In the event the Contractor breaches its repair and replacement obligations, Owner or Tenant(s) shall be entitled to repair and replace such Condition(s) and bring a legal action against Contractor during the Claim Period (defined below) for the cost of such repair and replacement. Notwithstanding the foregoing, in the event of a Condition(s) which is likely to cause imminent bodily injury, personal injury or property damage, Owner or Tenant(s) may repair and replace such Condition(s) without advance written notice to Contractor. In such event, Contractor shall promptly reimburse Owner or Tenant(s) for the cost of such repair and replacement.

Notwithstanding the foregoing, the right of the Owner or Tenant(s) to bring legal action against the Contractor as set forth in this Certificate and in the Agreement is limited to seven (7) years from the date of Substantial Completion of the Contractor's Work, unless the exposure period date is extended as provided for in Section 1.10.3 of the Agreement ("**Claim Period**").

This Warranty along with the assignment of the Owner's other rights, benefits and unfulfilled obligations are assignable as provided for in Section 9.9 of the Agreement.

IN WITNESS WHEREOF, this Certificate has been executed this ____ day of _____ 202_.

Trinity Construction Company, Inc., a Wisconsin corporation

By: _____
Name: _____
Title: _____

EXHIBIT "D"
CONTRACTOR'S WORK SCHEDULE

EXHIBIT "E"
GENERAL SAFETY AND HEALTH PROVISIONS

Owner requires full compliance with the current requirements and regulations of the Occupational Safety and Health Act 1970 ("OSHA"), Construction Safety Act 1969 and the OSHA Hazard Communication Standard for Construction of 1989, including all amendments thereto and standards and regulations which have been or shall be promulgated by the governmental authorities which administer such acts, by Contractor, its agents, employees, material suppliers, and subcontractors; and said requirements, standards and regulations are incorporated herein by reference.

Contractor shall comply with said requirements, standards and regulations, and require and be directly responsible for compliance therewith on the part of its agents, employees, material suppliers and subcontractors; and shall directly receive and be responsible for all citations, assessments, fines or penalties which may be incurred by reason of Contractor's failure or failure on the part of its agents, employees, material suppliers or subcontractors to so comply.

The Contractor shall indemnify, defend and hold harmless the Owner from any and all fines levied on the Owner for cited acts caused by the Contractor, its agents, employees, subcontractors or vendors.

SPECIFIC MINIMUM STANDARDS TO BE FOLLOWED

1. Job-site cleanliness and organization is directly related to safety as well as quality. Therefore, Contractor shall ensure that all rubbish and debris generated by Contractor is placed in the on-site dumpster on a daily basis. All cleanup of the Contractor's Work area shall be accomplished on a daily basis prior to leaving the Project, and all materials shall be stored in an orderly and neat manner. If after one verbal notification (notwithstanding other provisions of this Agreement regarding written notice) proper cleanup is not completed to the satisfaction of the Owner, the Owner may proceed without further notice with the required clean-up work and charge all costs plus fifteen percent (15%) to Contractor.
2. Contractor shall maintain all tools per OSHA standards and properly secure all tools and equipment at the end of each work day.
3. Contractor shall hold weekly on-site safety meetings/toolbox talks with Contractor's on-site workers, A report of each meeting to include subjects covered and a list of attendees shall be submitted to the Owner's Representative not later than Friday of each work week. The required personnel to attend are a representative who has the authority to make decisions concerning safety matters, change orders, schedule and manpower.
4. Prior to starting any of Contractor's Work, Contractor shall file a copy of its Safety Program with the Owner's Representative. Said Safety Program shall be in conformance with the Safety requirements of this Exhibit E and OSHA requirements.
5. Contractor shall ensure its Hazard Communication Program and Material Safety Data Sheets ("MSDS") for all materials and chemicals being used by Contractor and its employees are on file with Owner's Representative. A copy of Contractor's MSDS shall also be kept by Contractor in Contractor's on-site trailer or other on-site facility.
6. Any accident or injury is to be reported to the Owner's Representative immediately. Additionally, any near fall, near miss or any other incident that does result in injury, but had the potential for serious results, shall also be reported immediately.

7. Contractor shall submit daily reports to the Owner's Representative if requested. This report covers daily manpower and hours worked on the Project as well as any areas of concern regarding safety hazards and job-site cleanliness.
8. Contractor shall ensure strict adherence to the proper wearing of all required personal protective equipment ("PPE") which is mandatory with no exceptions. **Hard hats, safety glasses and safety vests (or shirts) will be worn at all times on the job-site.** All Owners' Projects are designated hard hat areas. Failure to comply with PPE requirements will result in prohibition of an individual worker from working on the Project upon receipt of one verbal and one written warning from the Owner's Representative. Shorts are not allowed to be worn on the Project. Shirts with sleeves, long pants (with no holes), hard hats and safety shoes/boots (no tennis or athletic allowed) shall be worn by all of Contractor's and Contractor's subcontractors' and vendor's workers and supervisory personnel.
9. Contractor shall ensure strict compliance with respect to eye protection with any of its workers or approved subcontractors in the form of safety glasses which shall be worn whenever workers are performing work involving cutting, grinding, drilling, chipping or pouring of concrete or other activities where OSHA requires safety glasses to be worn. Contractor shall provide respirators and the required respirator training for its workers per OSHA requirements as and when Project conditions warrant. This includes Contractor's continuous vigilance with respect to crystalline silica exposure.
10. Contractor shall ensure no radios, walk-mans or any other type of musical devices are allowed on the Project.
11. Contractor shall ensure the following key areas receive continuous vigilance throughout the period they are on the Project:
 - A. Project cleanliness and orderly storage/staging of materials and equipment;
 - B. Strict adherence to the use of proper personal protective equipment;
 - C. Fall protection and prevention;
 - D. Ladder and stairway safety;
 - E. Scaffolding safety;
 - F. Open trenches;
 - G. Caught in/between and stuck-by/hit-by hazards;
 - H. Heavy equipment/crane safety;
 - I. Hazard communication;
 - J. Hand and power tool safety; and
 - K. Electrical safety.

Items A through K are all areas to be continually emphasized by Contractor during weekly toolbox talks.

12. Contractor shall ensure safety rails, cables or barricades are not to be removed without permission of Owner's Representative. If Contractor removes safety rails, cables or barricades after receiving permission to do so, Contractor must immediately and correctly reinstall such rails, cables and barricades upon completion of the activity necessitating such removal prior to leaving the job-site.
13. Owner's Director of Safety periodically conducts job-site safety surveys. Contractor shall stop Contractor's Work and immediately correct, or cause to be corrected, any unsafe condition identified

during a safety survey. Owner's Representative or Director of Safety may conduct daily job-site walk-through and the Contractor shall immediately correct, or cause to be corrected, any unsafe conditions or areas of non-compliance noted during such walk-through.

14. The Contractor acknowledges that the Owner has adopted a policy prohibiting firearms on the Premises and providing that no alcohol or illegal drugs or substances shall be consumed at the Project, nor shall any workers be allowed to work at the Premises if they are, in the sole opinion of the Owner, performing their work while in possession of firearms or under the influence of alcohol or illegal drugs or substances. The Owner's Representative's determination with respect to such matters shall be final. The Owner's Representative shall have the right on oral notice to the Contractor (notwithstanding the provisions in the Agreement requiring written notice) to require immediate removal from the Project by Contractor of any workers of Contractor or Contractor's subcontractors or vendors whom the Owner's Representative designates based upon the Owner's Representative's opinion that such person is carrying a firearm or is under the influence of alcohol or illegal drugs or substances. Furthermore, the Owner's Representative may prohibit such individual from performing any further Contractor's Work on the Project, in the Owner's Representative's sole discretion. The Contractor acknowledges and understands the Owner's Representative's foregoing policy and agrees to strictly abide by and adhere to such policy.
15. Violation of any of the provisions of this Exhibit "E" to the Agreement shall be deemed an Agreement default.

EXHIBIT “F”

NOTICE ON USE OF CPVC PIPE PRODUCTS AND VERIFICATION OF COMPATABILITY

Lubrizon, the resin manufacturer for CPVC piping, and several industry experts have identified compatibility issues with CPVC piping. CPVC piping, in its finished form, is typically marketed under the names of FlowGuard Gold, Blaze Master, and Corzan. These finished products are manufactured by numerous pipe manufacturers with the Lubrizon resin.

Lubrizon and brand name CPVC pipes – FlowGuard Gold, Blaze Master and Corzan – have identified incompatible materials. The list includes, but is not limited to, certain caulks, fire stopping systems, leak detectors, communication wiring, pipe clamps and straps, flux, pipe tapes, oils, and thread sealants. Additionally, reasonable care must be exercised to avoid contamination and damage to these pipes when working with, adjacent to, or in contact with Lubrizon resin, FlowGuard Gold, Blaze Master, and Corzan products.

Contractor must verify, in writing, prior to the commencement of Contractor’s Work, prior to coordination of installing materials and throughout the construction process, that no materials, coming in contact with CPVC, will be introduced by Contractor to the Project jobsite that have been identified as incompatible with FlowGuard Gold, Blaze Master or Corzan products.

Contractor shall exercise reasonable care when working with, adjacent to, or in contact with FlowGuard Gold, Blaze Master and Corzan products. Additionally, the Contractor must provide education and train employees on working with or around CPVC piping materials.

Contractor must submit to Contractor, prior to commencing Contractor’s Work, a list of all products that will be in contact with, adjacent to, or used in the vicinity of FlowGuard Gold, Blaze Master or Corzan piping verifying these products meet the approved compatibility list.

Information on compatible and incompatible products can be obtained by Contractor through product websites, industry experts and product representatives. Products used in conjunction with CPVC should carry the compatibility seal.

Suggested websites include: Lubrizon: www.lubrizon.com
Lubrizon system compatible: www.systemcompatible.com
Flow Guard Gold: www.flowguardgold.com
Corzan: www.corzancpvc.com
Blaze Master: www.blazemaster.com

NOTICE TO CONTRACTOR: THE LIST OF PRODUCTS REFERRED TO ABOVE MUST BE PROVIDED TO CONTRACTOR BY SEPARATE WRITTEN SUBMITTAL.

