



Dear Sirs,

Enclosed you will find a Subcontractor Packet. The first page will give you instructions on how to complete these forms. Please complete and return to Criterion Contractors Inc. at your earliest convenience. We look forward to a positive working relationship with your company.

Sincerely,

Patti Locklear
Criterion Contractors Inc.
972-359-0064



Subcontractor Packet

Contents:

1) Master Subcontractor's Agreement (2 complete copies)

Review and **sign the front page of both copies. Return both to our office.** One original will be returned for your records after signature by Criterion Contractors.

2) Subcontractor's Guidelines (2 copies)

Review and **sign both copies and return to our office.** One original will be returned for your records after signature by Criterion Contractors Inc.

3) Criterion Contractors Inc., Accounting Procedures – Forms must be in order for payment to be processed.

- Internal Revenue Service Form W-9 (enclosed)
- Certificate of Insurance showing current liability insurance and Texas workers comp insurance naming Criterion Contractors Inc. as additional insured. (see note below)
- If no Texas workers comp. insurance, provide Texas Workers Comp Waiver (enclosed)
- Waiver of Lien for invoice amount (Master Copy to be used enclosed)

NOTE 1: Criterion Contractors Inc. must receive a Certificate of Liability Insurance (which should show both General Liability and Texas Workers Liability) from the Subcontractor's Insurance company showing Criterion as the Certificate Holder. ** \$25 per thousand of the Subcontractor's Contract will be withheld until the Certificate of General Liability is received.**



MASTER SUBCONTRACT AGREEMENT (Lump Sum)

This Agreement made this _____ day of _____, 20__, and effective until indefinite, by and between Criterion Contractors Inc., a Texas Corporation whose principal address is PO Box 2325 Allen, Texas 75013, hereinafter referred to as THE CONTRACTOR and _____, whose principal address is _____ hereinafter referred to as THE SUBCONTRACTOR, to perform work on projects as delineated by specific Work Orders issued as appropriate.

Now therefore in consideration of the mutual covenants herein made by Contractor and Subcontractor, the parties mutually agree as follows:

- 1) Subcontractor promises, covenants and agrees to furnish all labor, material, tools, taxes (if applicable), insurance, equipment, services and supplies in a good and workmanlike manner to perform the work as described in specific Work Orders. Work Orders shall be issued for the construction of each project, defining the project, Owner, specific Contract Documents, Scope of Work, and Work Order Sum to be paid to Subcontractor. Work shall be performed in accordance with the Contract Documents as defined in Article III.
- 2) Contractor agrees to pay Subcontractor in Collin County, Texas for the scope of Work described in each Work Order. Subcontractor agrees to accept payments to be made in accordance with Articles V and VI.
- 3) The Master Subcontract Agreement consisting of Articles I thru XIV and any exhibits or addendum attached or referred to therein or incorporated therein are made a part of this Agreement.
- 4) Subcontractor shall furnish Contractor a Certificate of Insurance per Article VIII prior to commencing the Work.
- 5) Prior to starting work, Subcontractor is required to submit for approval, all suppliers, with contact names and numbers. In the event the Subcontractor does not pay supplier bills with received funds each month, the Subcontractor will forfeit all retainage for each project.

In Witness whereof, the parties hereto have executed this Subcontract Agreement for themselves, their heirs, executors, successors, administrators and assignees.

Subcontractor:		Criterion Contractors Inc.	
By:		By:	
Printed Name:			Michael Locklear
Title:		Title:	President
Date:		Date:	
Phone:		Phone:	972-359-0064
Fax:		Fax:	972-727-4968

ARTICLE I
SCOPE OF WORK

1.01 Subcontract Work: Subcontractor shall furnish all labor, materials, fuel, equipment, tools, machinery, and supplies; perform all Work; obtain all necessary permits; and do all things necessary to complete the following part or parts of the Agreement in strict compliance with the contract documents described in Article III below. All of the referenced Work shall be in strict compliance with contract documents. Deviation from contract documents requires prior approval from Contractor by way of submittal process. Please allow two weeks for submittal process.

ARTICLE II
AGREEMENT SUM

2.01 Contractor agrees to pay Subcontractor the sum stated in the specific Work Orders for performance of the Subcontract Work thereunder, subject to adjustments for changes pursuant to Article VII - Changes.

2.02 Receipt of payment from the Owner for the Subcontractor's work is a condition precedent to Contractor's obligation to make payment to the Subcontractor, regardless of the reason for Owner's nonpayment, whether attributable to the fault of the Owner, the Contractor, the Subcontractor, or to any other cause. Payment as used in this clause shall include retainage, progress payments, payment for change orders and extra work, and final payment. The Subcontractor hereby acknowledges that it relies solely and exclusively on the credit of the Owner, not the Contractor, for payment for its work.

ARTICLE III
CONTRACT DOCUMENTS

3.01 The contract documents are specifically referred to in the Work Orders for each specific project and shall include this Master Subcontract Agreement.

3.02 Subcontractor acknowledges that he has read the contract documents and is familiar with each and every part thereof affecting his Subcontract Work, together with all related drawings, plans, specifications, general provisions and conditions incidental thereto. Subcontractor, by examination, has satisfied himself as to the nature and location of the Work; the character, other local conditions or matters affecting compliance with the contract documents. Further, Subcontractor is familiar with the respective rights, powers, benefits and liabilities of the Contractor and the Owner under the contract documents and hereby agrees to comply with and perform all provisions thereof which are applicable to the Subcontract Work.

3.03 Any provisions arising with respect to interpretation of the contract documents or any related drawings, plans, or specifications shall be submitted through the Contractor and the Subcontractor shall follow the Contractor's directions with respect to such matters.

3.04 Subcontractor shall be bound to the Contractor by the terms of the contract documents and this Agreement, and assume toward the Contractor all the obligations and responsibilities that the Contractor, by those documents, assumes toward the Owner, as applicable to this Subcontract. Subcontractor is bound to the same conditions as stated in the prime Contract between the Contractor and Owner (copy of prime Contract supplied upon request).

3.05 Subcontractor shall promptly submit shop drawings and samples, as required in order to carry on and work efficiently and at a speed that will not cause delay in the progress of the Contractor's Work on other branches of the Work carried on by other Subcontractors.

3.06 Subcontractor acknowledges receipt of all plans, specifications, drawings, forms and other items referred to in this Agreement.

ARTICLE IV

**PERFORMANCE, PROSECUTION OF WORK,
DAMAGES FOR DELAY**

4.01 Time is of the essence to this Agreement. Subcontractor shall begin Work as soon as instructed by the Contractor and shall prosecute the Subcontract Work promptly, efficiently and in a manner that will not cause delay to the progress of Contractor's Work or other Work performed on the project by other Subcontractors.

4.02 Subcontractor shall provide Contractor with scheduling information and Subcontractor's proposed performance schedule in a form satisfactory to the Contractor. Contractor may from time to time as the Work progresses, reschedule the order of Work to be performed by Subcontractor or otherwise revise Subcontractor's schedule. Subcontractor agrees to comply with such schedule revision without any increases to the subcontract price for acceleration or delay.

4.03 Subcontractor shall furnish periodic progress reports of Subcontract Work as may be required by Contractor; and shall attend periodic conferences at the job site to discuss progress.

4.04 Subcontractor shall be liable for any damages for delay sustained by Contractor caused directly or indirectly by Subcontractor, including but not limited to, damages, liquidated or otherwise, for which Contractor is liable to Owner and Contractor's overhead and expenses related to managing and supervising the prime contract Work during such periods of delay. Any such damages shall be deducted from payments due Subcontractor; and if such damages exceed the amount of payments due, Subcontractor shall pay Contractor upon demand, such excess damages due.

4.05 Contractor shall not be liable to Subcontractor for delay to Subcontractor's Work caused by the act, neglect or default of the Owner or Owner's representative, or by reason of fire or other casualty, or on account of riots or strikes, or other combined actions of the workmen or others, or on account of any acts of God, or any other causes beyond the Contractor's control, or any circumstance caused or contributed to by any Subcontractor or any other party performing a part of the Work; but Contractor will cooperate with Subcontractor to enforce any just claim against the Owner or Owner's representative for delay. Contractor shall be reimbursed by Subcontractor for any expenses, including attorney's fees, in connection with any claims asserted at the request of Subcontractor. Should Subcontractor be delayed in his Work by Contractor, then Contractor shall owe Subcontractor therefore only an extension of time for completion equal to the delay caused, and then only if written claim for delay is made to Contractor within forty-eight (48) hours from the time of the beginning of the delay.

4.06 Subcontractor shall perform all Work subject to the final approval of the Owner's authorized agent, and his decision in matters relating to artistic effect shall be final, if within the terms of the contract documents.

**ARTICLE V
PROGRESS PAYMENTS**

5.01 Subcontractor shall submit to the Contractor monthly applications for payment on the date specified by the Contractor to enable Contractor to include such amount in his application of payment to the Owner. Payments are made on valuations of Subcontract Work performed. The Subcontractor has submitted to the Contractor a schedule of values of the various parts of the Work, aggregate to the total sum of the Agreement. In applying for payment, the Subcontractor shall submit a statement based upon this schedule. Application for payment made on account of materials not incorporated in the Work, but delivered and suitably stored at the site or at some other location agreed upon in writing, shall include evidence of payment from supplier and shall be in accordance with the terms and conditions of the contract documents. Applications for payment submitted by **the 25th day of each month** shall be processed by the Contractor for payment. Progress payments shall be made to Subcontractor on or about the 25th day of the following month, provided that like payment has been made to Contractor by Owner. See Paragraph 2.02.

5.02 Retainage of ten percent (10%) of the sums due thereunder shall be withheld until completion and acceptance of all Work to be performed, however, not to exceed thirty (30) days under this Agreement, provided that like payment has been made to Contractor by Owner. See Paragraph 2.02.

5.03 In the event the Contractor believes any of the conditions listed below warrant such action, the Contractor may withhold from monthly progress payments due thereunder sums deemed necessary to protect the Contractor and Owner from any losses on account of: (a) Defective Work not remedied; (b) Failure of the Subcontractor to (i) pay bills for labor and/or materials furnished in connection with the Subcontract Work; and (ii) deliver to Criterion Contractors Inc. affidavits and/or waivers, releases and indemnities (in forms acceptable to Criterion Contractors Inc.) from laborers, lower tier contractors and materialmen who furnish labor or provide materials in connection with the

Subcontract Work.; (c) Inability of Subcontractor to complete the Subcontract Work for the unpaid Subcontract balance; (d) Failure of the Subcontractor to diligently prosecute the Subcontract Work such that damages for delay are likely; (e) Damages to another Subcontractor; or, (f) Breach by the Subcontractor of any provision or obligations of this Agreement.

5.04 Subcontract shall pay for all taxes, materials, equipment, and labor used in, or connection with the performance of the Agreement, throughout the period covered by previous payments received from the Contractor and furnish satisfactory evidence when requested by the Contractor to verify compliance with this request

5.05 Contractor reserves the right to make any payment to Subcontractor through the medium of a check made payable to the joint order of: (a) Subcontractor and such of Subcontractor's workmen, material men, suppliers; or (b) Subcontractors, or to any of Subcontractor's creditors having potential lien rights against the Work or claims against any payment bond of Contractor, whose claim against Subcontractor shall, in Contractor's sole determination, be in jeopardy of non-payment.

5.06 All contract documents must be fully executed (notarized where applicable) and forwarded to Contractor before payment will be released, i.e., Certificates of Insurance showing General Liability limits and Worker's Compensation coverage, IRS W 9 Form, Release of Lien Forms, Warranty Letters and Affidavits of All Bills Paid.

ARTICLE VI FINAL PAYMENT

6.01 Final payment shall be paid to the Subcontractor upon approval by the Owner, Architect and the Contractor of the Subcontractor's Work and, upon payment having been received by the Contractor for all the Subcontractor's Work, including any retainage withheld by the Owner from Contractor, attributable to the Subcontract Work, and satisfactory evidence having been received by the Contractor that all labor, including customary fringe benefits and payments due under collective bargaining agreements, and all Subcontractors and material men have been paid to date and are waiving their lien rights upon the final payment of a specific balance due. See Paragraph 2.02.

6.02 Applications for final payment shall be accompanied by a warranty letter and all necessary closeout documents as detailed in the Project Manual and Specifications as required by the construction contract. Prior to releasing or in conjunction with release of final payment, Subcontractor must execute an unconditional lien waiver and an affidavit of bills paid

ARTICLE VII CHANGES

7.01 The Subcontractor may be ordered by the Contractor, without invalidating the Subcontract, to make changes in the Subcontract Work within the general scope of this Subcontract, consisting of additions, deletions or other revisions to the Subcontract Work. Subcontractor, prior to the commencement of such changed or revised Work, shall promptly submit to the Contractor any claim for adjustment to the Subcontract price or performance schedule because of such changed or revised Work.

7.02 Subcontractor shall not be entitled to any extra compensation or additional performance time for any changed or revised Work unless the notice of claim for adjustment is provided the Contractor before such changed or revised Work is performed, and either: (a) the Contractor or Subcontractor entered into a modification changing the agreement sum and/or schedules; or, (b) the Contractor, after receiving the Subcontractor's claim, provides the Subcontractor notice to proceed with the changed or revised Work absent such modification.

7.03 Notwithstanding anything contained herein to the contrary, if the Work for which the Subcontractor claims extra compensation to be due is determined pursuant to the contract documents to be such that the Contractor is not entitled to additional compensation for such Work from the Owner, the Contractor shall not be liable to the Subcontractor for any extra compensation for such Work.

7.04 All Change Orders, Modifications, Claims for Adjustments, and Notice contemplated in this Article VII shall be in writing. All such requests shall be broken into cost categories of costs, overhead and profit, and sales/use tax (if applicable).

7.05 Duly authorized officers (President or Vice President) of the company are the only representatives of the Contractor who are authorized to approve and sign Change Orders.

7.06 All Change Orders, Modifications, Claims for Adjustments not directly reimbursed by the Owner and paid by Criterion Contractors Inc., shall be passed on at cost, that is, without overhead and profit.

**ARTICLE VIII
INSURANCE**

8.01 Prior to starting Work, the Subcontractor shall procure and maintain in force, Worker's Compensation Insurance, Comprehensive General Liability Insurance showing Criterion Contractors Inc. as "Additional Insured", using ISO Additional Insured Endorsement CG 20 10 11 85 (or an endorsement providing equivalent coverage) or a combination of ISO forms CG 20 10 11 01 and CG 20 37 10 01 (or substitute forms providing equivalent coverage providing ongoing and completed operations coverage) naming the Contractor and Owner as Additional Insureds with contractual coverage and such other insurance, to the extent required by the contract documents for the Subcontractor's Work and shall apply as Primary/Non Contributory before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured. **Note:** \$25 per thousand of the Subcontractor's Contract will be withheld until the Certificate of General Liability is received. Subcontractor agrees to waive any rights of subrogation, which Subcontractor may have against Contractor under applicable Worker's Compensation Statutes. Unless otherwise provided in this Subcontract, the Subcontractor's Comprehensive General Liability Insurance, as required by this provision, shall be written for not less than limits of liability as follows:

- (i) Comprehensive General Liability:
 - 1. Bodily Injury:
 - \$ 1,000,000.00 per occurrence
 - \$ 2,000,000.00 per aggregate
 - 2. Property Damage:
 - \$ 1,000,000.00 per occurrence
 - \$ 1,000,000.00 per aggregate

- (ii) Worker's Compensation:
 - 1. Each Accident:
 - \$ 1,000,000.00
 - 2. Disease - Policy Limit:
 - \$ 1,000,000.00
 - 3. Disease - Each Employee:
 - \$ 1,000,000.00

8.02 Comprehensive General Liability Insurance may be arranged under a single policy for the full limits required, or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy.

8.03 The forgoing policies shall contain a provision that coverage afforded under the policies will not be canceled or renewed until at least thirty (30) day's prior written notice has been given to the Contractor. Certificates of Insurance acceptable to the Contractor shall be filed with the Contractor prior to the commencement of Work.

8.04 The Contractor and Subcontractor waive all rights against each other, against the Owner, the Architect/Engineer, separate Contractors, and all other Subcontractors, for damages caused by fire or other perils to the extent covered by Builder's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance.

8.05 Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Subcontractor's Work until date of final payment and termination of any coverage required to be maintained after final payment.

8.06 Subcontractor's failure to obtain the required insurance shall in no way relieve Subcontractor from its indemnity obligations in this Agreement. Further, Subcontractor's indemnity obligations shall extend to the full amount of any damage, loss, or liability described in the indemnity provisions in this Agreement, and Subcontractor's indemnity obligations shall not be limited to the amount of insurance obtained or required.

ARTICLE IX INDEMNIFICATION

9.01 TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR AGREES TO FULLY PROTECT, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CONTACTOR, IT'S SURETY AND THE OWNER OF THE PROJECT FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, DISPUTES, LIENS, LIABILITIES, ATTORNEYS' FEES AND COSTS OF LITIGATION, LOSSES AND EXPENSES, AND/OR CAUSES OF ACTION OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER , DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION WITH ANY OF THE SUBCONTRACTOR'S WORK OR OPERATIONS HEREUNDER. SUBCONTRACTOR'S OBLIGATIONS TO INDEMNIFY AND HOLD HARMLESS OWNER AND CONTRACTOR AS STATED ABOVE SHALL APPLY WHERE SUCH CLAIM, CAUSE OF ACTION, DEMAND, DAMAGE, LIEN, LIABILITY, FEE, LOSS OR EXPENSE IS CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION OR BREACH OF CONTRACT BY THE SUBCONTRACTOR, IT'S SUBCONTRACTORS OR AGENTS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY SUBCONTRACTOR OR ANYONE FOR WHOSE ACTS SUBCONTRACTOR IS OR MAY BE LIABLE OR WHERE SUCH CLAIMS ARE CAUSED BY OR ARISE OUT OF THE USE OF ANY PRODUCTS, MATERIAL OR EQUIPMENT FURNISHED BY SUBCONTRACTOR. SUCH INDEMNIFICATION SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY CLAIM ARISING IN PART FROM ANY NEGLIGENT ACT OR OMISSION OF CONTRACOR, ITS OFFICERS, AGENTS OR EMPLOYEES, SAVE AND EXCEPT CLAIMS RESULTING FROM THE SOLE NEGLIGENCE OF INDEMNITEE. SUBCONTRACOR SHALL INDEMNIFY CONTRACTOR, AS PROVIDED HEREIN, EVEN IF CONTRACTOR IS CONCURRENTLY NEGLIGENT.

THE SUBCONTRACOR SHALL PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS CONTRACTOR FROM AND AGAINST ANY AND ALL DAMAGES, COSTS AND EXPENSES INCLUDING BUT NOT LIMITED TO, ATTORNEYS' FEES, ARISING OUT OF ANY INFRINGEMENT OR CLAIM OF INFRINGEMENT ON ANY PATENT OR LICESE IN THE USE OF ANY ARTICLES, EQUIPMENT, OR PROCESS FURNISHED OR REQUIRED TO BE FURNISHED BY THE SUBCONTRACTOR UNDER THIS SUBCONTRACT.

9.02 In any and all claims against the Contractor or any of his agents or employees by an employee of the Subcontractor, anyone directly or indirectly employed by him or anyone for whose acts he may be liable, the Indemnification obligation under this Article IX shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under Worker's Compensation acts, disability benefit acts, or other employee benefit acts.

9.03 The obligations of the Subcontractor under this Article IX shall not extend to the liability of the Architect/Engineer, his agents or employees, arising out of: (a) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications; or (b) the giving of, or failure to give directions or instruction by, the Architect/Engineer, its agents or employees, providing such giving or failure to give is the primary cause of the injury or damage.

**ARTICLE X
WARRANTY**

10.01 The Subcontractor agrees to promptly make good, without cost to the Owner or Contractor, any and all defects due to faulty workmanship and/or materials which may appear within the guarantee or warranty period so established in the contract documents; and if no such period be stipulated in the contract documents, then such guarantee shall be for a period of one year from date of substantial completion and acceptance of the project by the Owner. The Subcontractor further agrees to execute any special guarantee as provided by the terms of the contract documents prior to final payment.

**ARTICLE XI
TERMINATION**

11.01 Should the Subcontractor fail at any time to supply a sufficient number of properly skilled workmen and sufficient materials and equipment of the proper quality, or fail in any respect to prosecute the Work with promptness and diligence, or fail to promptly correct defective Work, or fail in the performance of any of the agreements herein contained, the Contractor may, at his option, provide such labor, materials and equipment and to deduct the cost thereof, together with all loss or damage occasioned thereby, from any money then due or thereafter to become due, to the Subcontractor under this Agreement.

11.02 If the Subcontractor at any time shall refuse or neglect to supply sufficient properly skilled workmen or materials or equipment of the proper quality or quantity, or fail in any respect to prosecute Subcontractor's Work with promptness and diligence, or cause by any active admission the stoppage or interference with the Work of the Contractor or other Subcontractors, or fail in performance of any of the covenants herein contained, or be unable to meet his debts as they mature, the Contractor may at his option, upon twenty-four (24) hours notice to the Subcontractor, terminate the Subcontractor's right to proceed with the Subcontract Work by delivering written notice of termination to the Subcontractor. Thereafter, the Contractor may take possession of the plant and Work, materials, tools, appliances and equipment of the Subcontractor at the building site, and through himself or others provide labor, equipment and materials to prosecute Subcontractor's Work on such terms and conditions as shall be deemed necessary, and shall deduct the cost thereof, including without restriction thereto all charges, expenses, losses, costs, damages, and attorney's fees incurred as a result of the Subcontractor's failure to perform, from any money then due or thereafter to become due to the Subcontractor under this Agreement.

11.03 If the contract between the Contractor and Owner contains a provision by which the Owner may terminate the right of the Contractor to proceed with the project for the convenience of the Owner, the Contractor shall have the right thereunder to terminate the right of the Subcontractor to proceed with the Subcontract Work for the convenience of the Contractor. In the event the Contractor terminates the right of the Subcontractor to proceed with the Subcontract Work for the convenience of the Contractor, the Subcontractor shall be compensated in accordance with the provisions of the Termination for Convenience provision of the prime contract. The Subcontractor shall be entitled to no other compensation or damages for any termination for the convenience of the Contractor, except as provided in this Paragraph 11.03.

11.04 If the Contractor so terminates the employment of the Subcontractor, the Subcontractor shall not be entitled to any future payment under this Agreement until Subcontractor's Work has been completed and accepted by the Owner and payment has been received by the Contractor from any money then due or thereafter to become due to the Subcontractor under this Agreement.

11.05 This offer may be withdrawn by Criterion Contractors Inc. - General Contractors if not accepted within thirty (30) days from date of this Agreement.

**ARTICLE XII
CLAIMS**

12.01 The Subcontractor agrees to make any claims to the Contractor for damaged or additional compensation based on alleged extra Work, changed conditions, or any other grounds in the same manner as provided in the contract documents for like claims of the Contractor upon the Owner, and in such times as will enable the Contractor to present such claims to the Owner for payment or recognition, and the Contractor will not be liable to the Subcontractor on account of any claim not timely or properly presented, nor unless and until it is allowed by the Owner. Notwithstanding anything to the contrary contained herein, no interruption, cessation, postponement or delay in the

commencement of the Work or in the progress thereof from any cause whatsoever, including disputes, shall relieve the Subcontractor of its duty to perform or give rise to any right therefore with respect to the Work to be performed by Subcontractor thereunder, and the Subcontractor hereby expressly waives and releases any other or further right to damages or additional compensation.

12.02 In the event of any dispute or claim between the Contractor and the Owner which directly or indirectly involves the Work required to be performed by Subcontractor under this Subcontract, or in the event of any dispute or claim between Contractor and Subcontractor which directly or indirectly involves a claim against the Owner for either additional compensation and/or an extension of time under the contract documents, Subcontractor agrees to be bound to Contractor and Contractor agrees to be bound to Subcontractor to the same extent that Contractor is bound to the Owner by the terms of the contract documents and by any and all decisions, findings or determinations made thereunder by the person so authorized in the contract documents, or by an administrative agency or court of competent jurisdiction, whether or not Subcontractor is a party to the proceedings before said person, agency or court. If any dispute or claim is prosecuted or defended by Contractor, and Subcontractor is not directly a party or litigant, Subcontractor agrees to cooperate fully with Contractor and to furnish all documents, statements, witnesses and other information required by Contractor for such purpose and shall pay or reimburse Contractor for all expenses and costs, including reasonable attorneys' fees incurred in connection therewith to the extent of the Subcontractor's interest in such claim or dispute. It is expressly understood and agreed, in connection with the determination of such claims or disputes, that as to any and all Work done and agreed to be done by the Subcontractor, and as to any and all materials or services furnished or agreed to be furnished by the Subcontractor, and as to any and all damage, if any, incurred by Subcontractor in connection with this project, Contractor shall never be liable to Subcontractor to any greater extent than Owner is liable to Contractor.

12.03 If the Subcontractor encounters surfaces or Work which he considers unsatisfactory, and which affect the Work under this Subcontract, or if the Subcontractor encounters any other condition whatsoever upon which he may base a claim for extra compensation, extra time or any other type of claim, it shall be his duty to give written notice to the Contractor prior to commencing any Work involving said conditions in order to allow the Contractor to inspect said conditions and to make such arrangements and take such steps as Contractor deems necessary. In the absence of such notice to the Contractor, Subcontractor shall be fully and solely responsible and liable for any and all expenses, loss, or damages resulting from said condition and Contractor shall be relieved of all liability in connection therewith.

12.04 Subcontractor shall carry on Subcontractor's Work and maintain his progress during any arbitration or litigation proceedings.

12.05 All Claims or disputes between the Subcontractor and the Contractor arising out or relating to the Contract, or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise. Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association and shall be made within a reasonable time after the dispute has arisen. The award rendered by the arbitrator or arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Except by written consent of the person or entity sought to be joined, no arbitration arising out of or relating to the General Contract or this Agreement shall include, by consolidation, joinder or in any other manner, any person or entity not a party to the Agreement under which such arbitration arises, unless it is shown at the time the demand for arbitration is filed that (a) such person or entity is substantially involved in a common questions of fact or law, (b) the presence of such person or entity is required if complete relief is to be accorded in the arbitration and the interest or responsibility of such person or entity in the matter is not insubstantial. The Agreement herein among the parties to the Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

12.06 Subcontractor shall make no claim for services rendered or materials furnished by the Subcontractor to the Contractor unless written notice thereof is given by the Subcontractor to the Contractor during the first ten (10) days of the calendar month following that in which the claim originated.

ARTICLE XIII
PROTECTION OF PERSONS AND PROPERTY

13.01 Subcontractor shall not discriminate against any employee or applicant for employment because of race, sex, creed, color, age or national origin.

13.02 Subcontractor shall take necessary precaution to properly protect the finished Work of other trades and Subcontractors.

13.03 Subcontractor shall pay all laborers and mechanics performing Work upon the project no less than the minimum rate of pay and fringe benefits as may be specified in the contract documents, and provide certified payroll reports weekly, or as may be required by Contractor, evidencing payment of such wage rates.

13.04 Keep the building and premises clean, at all times, of debris arising out of the operation of this Agreement. The Subcontractor shall not be held responsible for unclean conditions caused by other Contractors or Subcontractors unless otherwise provided for. Subcontractor shall be given one (1) twenty-four (24) hour notice to remove his trash. If, at the end of the twenty-four (24) hour notice period, the Subcontractor's trash has not been removed, Contractor shall, without further notice, remove trash at a flat rate of fifty dollars (\$50.00) per hour with a minimum two (2) hour charge. A deductive change order shall be issued for cleaning expenses and will be signed by Subcontractor prior to Contractor's payment of any additional money to Subcontractors.

13.05 Comply with all Federal, State and local laws and ordinances applying to the building or structure and to comply and give adequate notices relating to the Work to the proper authorities, and to secure and pay for all necessary licenses or permits to carry on the Work as described in the contract documents as applicable to this Agreement.

13.06 Subcontractor shall comply with all Federal, State, and local statutes, Social Security statutes, and Unemployment Compensation statutes and Worker's Compensation statutes insofar as applicable to the performance of the Agreement.

13.07 Subcontractor shall provide sufficient, safe and proper facilities at all times for the inspection of the Work by the Contractor or his authorized representatives. Work not meeting the specifications or intent of the drawings shall be removed or rebuilt to conform to same at Subcontractor's expenses.

13.08 Subcontractor shall comply with all safety regulations on the Federal, State, and municipal authorities, and particularly agrees to comply with all the requirements of the most current Occupational Safety and Health Act and all regulations promulgated by the U.S. Department of Labor under the terms thereof.

13.09 If hazardous substances of a type of which an employer is required by law to notify its employees are being used on the site by the Subcontractor, the Subcontractor's Sub-subcontractors or anyone directly or indirectly employed by them, the Subcontractor shall, prior to harmful exposure of any employees on the site to such substance, give written notice of the chemical composition thereof to the Contractor in sufficient detail and time to permit compliance with such laws by the Contractor, other Subcontractors and other employers on the site.

13.10 In the event the Subcontractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Subcontractor shall immediately stop Work in the area affected and report the condition to the Contractor in writing. The Work in the affected area shall resume in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Contractor and Subcontractor, or in accordance with final determination by the Architect on which arbitration has not been demanded, or by arbitration as provided in this Agreement.

ARTICLE XIV
MISCELLANEOUS PROVISIONS

14.01 Subcontractor shall not assign or factor this Subcontract or any payments due, or to become due, thereunder without the written consent of the Contractor; nor subcontract the whole of this Subcontract without the written consent of the Contractor; nor further subcontract portions of this Subcontract without written notification to the Contractor, when such notification is requested by the Contractor.

14.02 Either party may require the Subcontractor to enter into agreements with Sub-subcontractors performing portions of the Work of this Agreement by which the Subcontractor and the Sub-subcontractor are mutually bound, to the extent of the Work to be performed by the Sub-subcontractor, assuming toward each other all obligations and responsibilities which the Contractor and Subcontractor assume toward each other and having the benefit of all rights, remedies and redress each against the other which the Contractor and Subcontractor have by virtue of the provisions of this Agreement.

14.03 Subcontractor shall maintain a qualified Superintendent, approved by Contractor, on the job at all times.

14.04 Subcontractor shall furnish all necessary liens, waivers, affidavits, or other documents which are required to keep Owner's premises free from liens or claims arising out of the furnishings of materials or equipment.

14.05 Only an officer or authorized representative of the Subcontractor's Company presenting a Power of Attorney or letter of authorization will be allowed to sign the Agreement and other pertinent contract documents.

14.06 If any provision of this Agreement is determined to be invalid or unenforceable, such determination shall not affect the enforceability or validity of the balance of the provisions of this Agreement and this Agreement shall, as to those provisions, remain in full force and effect.

14.07 This Agreement shall be construed as a unit and shall not be considered severable. If the Subcontractor fails to perform its obligations under the Agreement and becomes obligated to pay the Contractor a sum of money which exceeds the amount of money retained by the Contractor under the terms of this Agreement, the Contractor may, at its option, withhold or deduct the amount of money due from the Subcontractor under this Agreement from the monies the Contractor may be obligated to pay to the Subcontractor under any other Agreement between the Subcontractor and the Contractor.

14.08 All parties agree that in the event legal action becomes necessary the same will be filed and tried in Collin County, Texas.

14.09 Contractor shall conduct their own punch list prior to Owner/Architect punch list. All items pertaining to Contractor's punch list must be completed independent of and prior to Owner/Architect punch list.

14.10 Contractor shall be bound to the Subcontractor by all the obligations that the Owner assumes to the Contractor under the contract documents and by all the provisions thereof affording remedies and redress to the Contractor from the Owner, insofar as applicable to this Agreement.

14.11 Contractor shall not issue or give any instructions, orders or directions directly to employees or workmen of the Subcontractor other than the persons designated as the authorized representative(s) of the Subcontractor.

14.12 All notices required to be given under this Agreement shall be deemed delivered when Federal Expressed, faxed, or deposited in the United States mail, first class, postage prepaid to the attention of Project Manager.

14.13 This Agreement contains the entire agreement of the parties. All prior Agreements respecting the subject matter hereof are of no force or effect. All modifications to this Agreement shall be in writing, executed by both parties.

14.14 In the event there is a conflict between the contract documents and any provisions of this Agreement, the terms of this Agreement shall govern.

14.15 In the event either party is required to obtain the services of an attorney to enforce this Agreement, the prevailing party, in addition to other remedies available, shall be entitled to recover reasonable attorneys' fees.

END



MASTER SUBCONTRACT AGREEMENT (Lump Sum)

This Agreement made this _____ day of _____, 20__, and effective until indefinite, by and between Criterion Contractors Inc., a Texas Corporation whose principal address is PO Box 2325 Allen, Texas 75013, hereinafter referred to as THE CONTRACTOR and _____, whose principal address is _____ hereinafter referred to as THE SUBCONTRACTOR, to perform work on projects as delineated by specific Work Orders issued as appropriate.

Now therefore in consideration of the mutual covenants herein made by Contractor and Subcontractor, the parties mutually agree as follows:

- 1) Subcontractor promises, covenants and agrees to furnish all labor, material, tools, taxes (if applicable), insurance, equipment, services and supplies in a good and workmanlike manner to perform the work as described in specific Work Orders. Work Orders shall be issued for the construction of each project, defining the project, Owner, specific Contract Documents, Scope of Work, and Work Order Sum to be paid to Subcontractor. Work shall be performed in accordance with the Contract Documents as defined in Article III.
- 2) Contractor agrees to pay Subcontractor in Collin County, Texas for the scope of Work described in each Work Order. Subcontractor agrees to accept payments to be made in accordance with Articles V and VI.
- 3) The Master Subcontract Agreement consisting of Articles I thru XIV and any exhibits or addendum attached or referred to therein or incorporated therein are made a part of this Agreement.
- 4) Subcontractor shall furnish Contractor a Certificate of Insurance per Article VIII prior to commencing the Work.
- 5) Prior to starting work, Subcontractor is required to submit for approval, all suppliers, with contact names and numbers. In the event the Subcontractor does not pay supplier bills with received funds each month, the Subcontractor will forfeit all retainage for each project.

In Witness whereof, the parties hereto have executed this Subcontract Agreement for themselves, their heirs, executors, successors, administrators and assignees.

Subcontractor:		Criterion Contractors Inc.	
By:		By:	
Printed Name:			Michael Locklear
Title:		Title:	President
Date:		Date:	
Phone:		Phone:	972-359-0064
Fax:		Fax:	972-727-4968

ARTICLE I
SCOPE OF WORK

1.01 Subcontract Work: Subcontractor shall furnish all labor, materials, fuel, equipment, tools, machinery, and supplies; perform all Work; obtain all necessary permits; and do all things necessary to complete the following part or parts of the Agreement in strict compliance with the contract documents described in Article III below. All of the referenced Work shall be in strict compliance with contract documents. Deviation from contract documents requires prior approval from Contractor by way of submittal process. Please allow two weeks for submittal process.

ARTICLE II
AGREEMENT SUM

2.01 Contractor agrees to pay Subcontractor the sum stated in the specific Work Orders for performance of the Subcontract Work thereunder, subject to adjustments for changes pursuant to Article VII - Changes.

2.02 Receipt of payment from the Owner for the Subcontractor's work is a condition precedent to Contractor's obligation to make payment to the Subcontractor, regardless of the reason for Owner's nonpayment, whether attributable to the fault of the Owner, the Contractor, the Subcontractor, or to any other cause. Payment as used in this clause shall include retainage, progress payments, payment for change orders and extra work, and final payment. The Subcontractor hereby acknowledges that it relies solely and exclusively on the credit of the Owner, not the Contractor, for payment for its work.

ARTICLE III
CONTRACT DOCUMENTS

3.01 The contract documents are specifically referred to in the Work Orders for each specific project and shall include this Master Subcontract Agreement.

3.02 Subcontractor acknowledges that he has read the contract documents and is familiar with each and every part thereof affecting his Subcontract Work, together with all related drawings, plans, specifications, general provisions and conditions incidental thereto. Subcontractor, by examination, has satisfied himself as to the nature and location of the Work; the character, other local conditions or matters affecting compliance with the contract documents. Further, Subcontractor is familiar with the respective rights, powers, benefits and liabilities of the Contractor and the Owner under the contract documents and hereby agrees to comply with and perform all provisions thereof which are applicable to the Subcontract Work.

3.03 Any provisions arising with respect to interpretation of the contract documents or any related drawings, plans, or specifications shall be submitted through the Contractor and the Subcontractor shall follow the Contractor's directions with respect to such matters.

3.04 Subcontractor shall be bound to the Contractor by the terms of the contract documents and this Agreement, and assume toward the Contractor all the obligations and responsibilities that the Contractor, by those documents, assumes toward the Owner, as applicable to this Subcontract. Subcontractor is bound to the same conditions as stated in the prime Contract between the Contractor and Owner (copy of prime Contract supplied upon request).

3.05 Subcontractor shall promptly submit shop drawings and samples, as required in order to carry on and work efficiently and at a speed that will not cause delay in the progress of the Contractor's Work on other branches of the Work carried on by other Subcontractors.

3.06 Subcontractor acknowledges receipt of all plans, specifications, drawings, forms and other items referred to in this Agreement.

ARTICLE IV

**PERFORMANCE, PROSECUTION OF WORK,
DAMAGES FOR DELAY**

4.01 Time is of the essence to this Agreement. Subcontractor shall begin Work as soon as instructed by the Contractor and shall prosecute the Subcontract Work promptly, efficiently and in a manner that will not cause delay to the progress of Contractor's Work or other Work performed on the project by other Subcontractors.

4.02 Subcontractor shall provide Contractor with scheduling information and Subcontractor's proposed performance schedule in a form satisfactory to the Contractor. Contractor may from time to time as the Work progresses, reschedule the order of Work to be performed by Subcontractor or otherwise revise Subcontractor's schedule. Subcontractor agrees to comply with such schedule revision without any increases to the subcontract price for acceleration or delay.

4.03 Subcontractor shall furnish periodic progress reports of Subcontract Work as may be required by Contractor; and shall attend periodic conferences at the job site to discuss progress.

4.04 Subcontractor shall be liable for any damages for delay sustained by Contractor caused directly or indirectly by Subcontractor, including but not limited to, damages, liquidated or otherwise, for which Contractor is liable to Owner and Contractor's overhead and expenses related to managing and supervising the prime contract Work during such periods of delay. Any such damages shall be deducted from payments due Subcontractor; and if such damages exceed the amount of payments due, Subcontractor shall pay Contractor upon demand, such excess damages due.

4.05 Contractor shall not be liable to Subcontractor for delay to Subcontractor's Work caused by the act, neglect or default of the Owner or Owner's representative, or by reason of fire or other casualty, or on account of riots or strikes, or other combined actions of the workmen or others, or on account of any acts of God, or any other causes beyond the Contractor's control, or any circumstance caused or contributed to by any Subcontractor or any other party performing a part of the Work; but Contractor will cooperate with Subcontractor to enforce any just claim against the Owner or Owner's representative for delay. Contractor shall be reimbursed by Subcontractor for any expenses, including attorney's fees, in connection with any claims asserted at the request of Subcontractor. Should Subcontractor be delayed in his Work by Contractor, then Contractor shall owe Subcontractor therefore only an extension of time for completion equal to the delay caused, and then only if written claim for delay is made to Contractor within forty-eight (48) hours from the time of the beginning of the delay.

4.06 Subcontractor shall perform all Work subject to the final approval of the Owner's authorized agent, and his decision in matters relating to artistic effect shall be final, if within the terms of the contract documents.

**ARTICLE V
PROGRESS PAYMENTS**

5.01 Subcontractor shall submit to the Contractor monthly applications for payment on the date specified by the Contractor to enable Contractor to include such amount in his application of payment to the Owner. Payments are made on valuations of Subcontract Work performed. The Subcontractor has submitted to the Contractor a schedule of values of the various parts of the Work, aggregate to the total sum of the Agreement. In applying for payment, the Subcontractor shall submit a statement based upon this schedule. Application for payment made on account of materials not incorporated in the Work, but delivered and suitably stored at the site or at some other location agreed upon in writing, shall include evidence of payment from supplier and shall be in accordance with the terms and conditions of the contract documents. Applications for payment submitted by **the 25th day of each month** shall be processed by the Contractor for payment. Progress payments shall be made to Subcontractor on or about the 25th day of the following month, provided that like payment has been made to Contractor by Owner. See Paragraph 2.02.

5.02 Retainage of ten percent (10%) of the sums due thereunder shall be withheld until completion and acceptance of all Work to be performed, however, not to exceed thirty (30) days under this Agreement, provided that like payment has been made to Contractor by Owner. See Paragraph 2.02.

5.03 In the event the Contractor believes any of the conditions listed below warrant such action, the Contractor may withhold from monthly progress payments due thereunder sums deemed necessary to protect the Contractor and Owner from any losses on account of: (a) Defective Work not remedied; (b) Failure of the Subcontractor to (i) pay bills for labor and/or materials furnished in connection with the Subcontract Work; and (ii) deliver to Criterion Contractors Inc. affidavits and/or waivers, releases and indemnities (in forms acceptable to Criterion Contractors Inc.) from laborers, lower tier contractors and materialmen who furnish labor or provide materials in connection with the

Subcontract Work.; (c) Inability of Subcontractor to complete the Subcontract Work for the unpaid Subcontract balance; (d) Failure of the Subcontractor to diligently prosecute the Subcontract Work such that damages for delay are likely; (e) Damages to another Subcontractor; or, (f) Breach by the Subcontractor of any provision or obligations of this Agreement.

5.04 Subcontract shall pay for all taxes, materials, equipment, and labor used in, or connection with the performance of the Agreement, throughout the period covered by previous payments received from the Contractor and furnish satisfactory evidence when requested by the Contractor to verify compliance with this request

5.05 Contractor reserves the right to make any payment to Subcontractor through the medium of a check made payable to the joint order of: (a) Subcontractor and such of Subcontractor's workmen, material men, suppliers; or (b) Subcontractors, or to any of Subcontractor's creditors having potential lien rights against the Work or claims against any payment bond of Contractor, whose claim against Subcontractor shall, in Contractor's sole determination, be in jeopardy of non-payment.

5.06 All contract documents must be fully executed (notarized where applicable) and forwarded to Contractor before payment will be released, i.e., Certificates of Insurance showing General Liability limits and Worker's Compensation coverage, IRS W 9 Form, Release of Lien Forms, Warranty Letters and Affidavits of All Bills Paid.

ARTICLE VI FINAL PAYMENT

6.01 Final payment shall be paid to the Subcontractor upon approval by the Owner, Architect and the Contractor of the Subcontractor's Work and, upon payment having been received by the Contractor for all the Subcontractor's Work, including any retainage withheld by the Owner from Contractor, attributable to the Subcontract Work, and satisfactory evidence having been received by the Contractor that all labor, including customary fringe benefits and payments due under collective bargaining agreements, and all Subcontractors and material men have been paid to date and are waiving their lien rights upon the final payment of a specific balance due. See Paragraph 2.02.

6.02 Applications for final payment shall be accompanied by a warranty letter and all necessary closeout documents as detailed in the Project Manual and Specifications as required by the construction contract. Prior to releasing or in conjunction with release of final payment, Subcontractor must execute an unconditional lien waiver and an affidavit of bills paid

ARTICLE VII CHANGES

7.01 The Subcontractor may be ordered by the Contractor, without invalidating the Subcontract, to make changes in the Subcontract Work within the general scope of this Subcontract, consisting of additions, deletions or other revisions to the Subcontract Work. Subcontractor, prior to the commencement of such changed or revised Work, shall promptly submit to the Contractor any claim for adjustment to the Subcontract price or performance schedule because of such changed or revised Work.

7.02 Subcontractor shall not be entitled to any extra compensation or additional performance time for any changed or revised Work unless the notice of claim for adjustment is provided the Contractor before such changed or revised Work is performed, and either: (a) the Contractor or Subcontractor entered into a modification changing the agreement sum and/or schedules; or, (b) the Contractor, after receiving the Subcontractor's claim, provides the Subcontractor notice to proceed with the changed or revised Work absent such modification.

7.03 Notwithstanding anything contained herein to the contrary, if the Work for which the Subcontractor claims extra compensation to be due is determined pursuant to the contract documents to be such that the Contractor is not entitled to additional compensation for such Work from the Owner, the Contractor shall not be liable to the Subcontractor for any extra compensation for such Work.

7.04 All Change Orders, Modifications, Claims for Adjustments, and Notice contemplated in this Article VII shall be in writing. All such requests shall be broken into cost categories of costs, overhead and profit, and sales/use tax (if applicable).

7.05 Duly authorized officers (President or Vice President) of the company are the only representatives of the Contractor who are authorized to approve and sign Change Orders.

7.06 All Change Orders, Modifications, Claims for Adjustments not directly reimbursed by the Owner and paid by Criterion Contractors Inc., shall be passed on at cost, that is, without overhead and profit.

**ARTICLE VIII
INSURANCE**

8.01 Prior to starting Work, the Subcontractor shall procure and maintain in force, Worker's Compensation Insurance, Comprehensive General Liability Insurance showing Criterion Contractors Inc. as "Additional Insured", using ISO Additional Insured Endorsement CG 20 10 11 85 (or an endorsement providing equivalent coverage) or a combination of ISO forms CG 20 10 11 01 and CG 20 37 10 01 (or substitute forms providing equivalent coverage providing ongoing and completed operations coverage) naming the Contractor and Owner as Additional Insureds with contractual coverage and such other insurance, to the extent required by the contract documents for the Subcontractor's Work and shall apply as Primary/Non Contributory before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured. **Note:** \$25 per thousand of the Subcontractor's Contract will be withheld until the Certificate of General Liability is received. Subcontractor agrees to waive any rights of subrogation, which Subcontractor may have against Contractor under applicable Worker's Compensation Statutes. Unless otherwise provided in this Subcontract, the Subcontractor's Comprehensive General Liability Insurance, as required by this provision, shall be written for not less than limits of liability as follows:

- (i) Comprehensive General Liability:
 - 1. Bodily Injury:
 - \$ 1,000,000.00 per occurrence
 - \$ 2,000,000.00 per aggregate
 - 2. Property Damage:
 - \$ 1,000,000.00 per occurrence
 - \$ 1,000,000.00 per aggregate

- (ii) Worker's Compensation:
 - 1. Each Accident:
 - \$ 1,000,000.00
 - 2. Disease - Policy Limit:
 - \$ 1,000,000.00
 - 3. Disease - Each Employee:
 - \$ 1,000,000.00

8.02 Comprehensive General Liability Insurance may be arranged under a single policy for the full limits required, or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy.

8.03 The forgoing policies shall contain a provision that coverage afforded under the policies will not be canceled or renewed until at least thirty (30) day's prior written notice has been given to the Contractor. Certificates of Insurance acceptable to the Contractor shall be filed with the Contractor prior to the commencement of Work.

8.04 The Contractor and Subcontractor waive all rights against each other, against the Owner, the Architect/Engineer, separate Contractors, and all other Subcontractors, for damages caused by fire or other perils to the extent covered by Builder's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance.

8.05 Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Subcontractor's Work until date of final payment and termination of any coverage required to be maintained after final payment.

8.06 Subcontractor's failure to obtain the required insurance shall in no way relieve Subcontractor from its indemnity obligations in this Agreement. Further, Subcontractor's indemnity obligations shall extend to the full amount of any damage, loss, or liability described in the indemnity provisions in this Agreement, and Subcontractor's indemnity obligations shall not be limited to the amount of insurance obtained or required.

ARTICLE IX INDEMNIFICATION

9.01 TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR AGREES TO FULLY PROTECT, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CONTACTOR, IT'S SURETY AND THE OWNER OF THE PROJECT FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, DISPUTES, LIENS, LIABILITIES, ATTORNEYS' FEES AND COSTS OF LITIGATION, LOSSES AND EXPENSES, AND/OR CAUSES OF ACTION OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER , DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION WITH ANY OF THE SUBCONTRACTOR'S WORK OR OPERATIONS HEREUNDER. SUBCONTRACTOR'S OBLIGATIONS TO INDEMNIFY AND HOLD HARMLESS OWNER AND CONTRACTOR AS STATED ABOVE SHALL APPLY WHERE SUCH CLAIM, CAUSE OF ACTION, DEMAND, DAMAGE, LIEN, LIABILITY, FEE, LOSS OR EXPENSE IS CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION OR BREACH OF CONTRACT BY THE SUBCONTRACTOR, IT'S SUBCONTRACTORS OR AGENTS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY SUBCONTRACTOR OR ANYONE FOR WHOSE ACTS SUBCONTRACTOR IS OR MAY BE LIABLE OR WHERE SUCH CLAIMS ARE CAUSED BY OR ARISE OUT OF THE USE OF ANY PRODUCTS, MATERIAL OR EQUIPMENT FURNISHED BY SUBCONTRACTOR. SUCH INDEMNIFICATION SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY CLAIM ARISING IN PART FROM ANY NEGLIGENT ACT OR OMISSION OF CONTRACOR, ITS OFFICERS, AGENTS OR EMPLOYEES, SAVE AND EXCEPT CLAIMS RESULTING FROM THE SOLE NEGLIGENCE OF INDEMNITEE. SUBCONTRACOR SHALL INDEMNIFY CONTRACTOR, AS PROVIDED HEREIN, EVEN IF CONTRACTOR IS CONCURRENTLY NEGLIGENT.

THE SUBCONTRACOR SHALL PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS CONTRACTOR FROM AND AGAINST ANY AND ALL DAMAGES, COSTS AND EXPENSES INCLUDING BUT NOT LIMITED TO, ATTORNEYS' FEES, ARISING OUT OF ANY INFRINGEMENT OR CLAIM OF INFRINGEMENT ON ANY PATENT OR LICESE IN THE USE OF ANY ARTICLES, EQUIPMENT, OR PROCESS FURNISHED OR REQUIRED TO BE FURNISHED BY THE SUBCONTRACTOR UNDER THIS SUBCONTRACT.

9.02 In any and all claims against the Contractor or any of his agents or employees by an employee of the Subcontractor, anyone directly or indirectly employed by him or anyone for whose acts he may be liable, the Indemnification obligation under this Article IX shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under Worker's Compensation acts, disability benefit acts, or other employee benefit acts.

9.03 The obligations of the Subcontractor under this Article IX shall not extend to the liability of the Architect/Engineer, his agents or employees, arising out of: (a) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications; or (b) the giving of, or failure to give directions or instruction by, the Architect/Engineer, its agents or employees, providing such giving or failure to give is the primary cause of the injury or damage.

**ARTICLE X
WARRANTY**

10.01 The Subcontractor agrees to promptly make good, without cost to the Owner or Contractor, any and all defects due to faulty workmanship and/or materials which may appear within the guarantee or warranty period so established in the contract documents; and if no such period be stipulated in the contract documents, then such guarantee shall be for a period of one year from date of substantial completion and acceptance of the project by the Owner. The Subcontractor further agrees to execute any special guarantee as provided by the terms of the contract documents prior to final payment.

**ARTICLE XI
TERMINATION**

11.01 Should the Subcontractor fail at any time to supply a sufficient number of properly skilled workmen and sufficient materials and equipment of the proper quality, or fail in any respect to prosecute the Work with promptness and diligence, or fail to promptly correct defective Work, or fail in the performance of any of the agreements herein contained, the Contractor may, at his option, provide such labor, materials and equipment and to deduct the cost thereof, together with all loss or damage occasioned thereby, from any money then due or thereafter to become due, to the Subcontractor under this Agreement.

11.02 If the Subcontractor at any time shall refuse or neglect to supply sufficient properly skilled workmen or materials or equipment of the proper quality or quantity, or fail in any respect to prosecute Subcontractor's Work with promptness and diligence, or cause by any active admission the stoppage or interference with the Work of the Contractor or other Subcontractors, or fail in performance of any of the covenants herein contained, or be unable to meet his debts as they mature, the Contractor may at his option, upon twenty-four (24) hours notice to the Subcontractor, terminate the Subcontractor's right to proceed with the Subcontract Work by delivering written notice of termination to the Subcontractor. Thereafter, the Contractor may take possession of the plant and Work, materials, tools, appliances and equipment of the Subcontractor at the building site, and through himself or others provide labor, equipment and materials to prosecute Subcontractor's Work on such terms and conditions as shall be deemed necessary, and shall deduct the cost thereof, including without restriction thereto all charges, expenses, losses, costs, damages, and attorney's fees incurred as a result of the Subcontractor's failure to perform, from any money then due or thereafter to become due to the Subcontractor under this Agreement.

11.03 If the contract between the Contractor and Owner contains a provision by which the Owner may terminate the right of the Contractor to proceed with the project for the convenience of the Owner, the Contractor shall have the right thereunder to terminate the right of the Subcontractor to proceed with the Subcontract Work for the convenience of the Contractor. In the event the Contractor terminates the right of the Subcontractor to proceed with the Subcontract Work for the convenience of the Contractor, the Subcontractor shall be compensated in accordance with the provisions of the Termination for Convenience provision of the prime contract. The Subcontractor shall be entitled to no other compensation or damages for any termination for the convenience of the Contractor, except as provided in this Paragraph 11.03.

11.04 If the Contractor so terminates the employment of the Subcontractor, the Subcontractor shall not be entitled to any future payment under this Agreement until Subcontractor's Work has been completed and accepted by the Owner and payment has been received by the Contractor from any money then due or thereafter to become due to the Subcontractor under this Agreement.

11.05 This offer may be withdrawn by Criterion Contractors Inc. - General Contractors if not accepted within thirty (30) days from date of this Agreement.

**ARTICLE XII
CLAIMS**

12.01 The Subcontractor agrees to make any claims to the Contractor for damaged or additional compensation based on alleged extra Work, changed conditions, or any other grounds in the same manner as provided in the contract documents for like claims of the Contractor upon the Owner, and in such times as will enable the Contractor to present such claims to the Owner for payment or recognition, and the Contractor will not be liable to the Subcontractor on account of any claim not timely or properly presented, nor unless and until it is allowed by the Owner. Notwithstanding anything to the contrary contained herein, no interruption, cessation, postponement or delay in the

commencement of the Work or in the progress thereof from any cause whatsoever, including disputes, shall relieve the Subcontractor of its duty to perform or give rise to any right therefore with respect to the Work to be performed by Subcontractor thereunder, and the Subcontractor hereby expressly waives and releases any other or further right to damages or additional compensation.

12.02 In the event of any dispute or claim between the Contractor and the Owner which directly or indirectly involves the Work required to be performed by Subcontractor under this Subcontract, or in the event of any dispute or claim between Contractor and Subcontractor which directly or indirectly involves a claim against the Owner for either additional compensation and/or an extension of time under the contract documents, Subcontractor agrees to be bound to Contractor and Contractor agrees to be bound to Subcontractor to the same extent that Contractor is bound to the Owner by the terms of the contract documents and by any and all decisions, findings or determinations made thereunder by the person so authorized in the contract documents, or by an administrative agency or court of competent jurisdiction, whether or not Subcontractor is a party to the proceedings before said person, agency or court. If any dispute or claim is prosecuted or defended by Contractor, and Subcontractor is not directly a party or litigant, Subcontractor agrees to cooperate fully with Contractor and to furnish all documents, statements, witnesses and other information required by Contractor for such purpose and shall pay or reimburse Contractor for all expenses and costs, including reasonable attorneys' fees incurred in connection therewith to the extent of the Subcontractor's interest in such claim or dispute. It is expressly understood and agreed, in connection with the determination of such claims or disputes, that as to any and all Work done and agreed to be done by the Subcontractor, and as to any and all materials or services furnished or agreed to be furnished by the Subcontractor, and as to any and all damage, if any, incurred by Subcontractor in connection with this project, Contractor shall never be liable to Subcontractor to any greater extent than Owner is liable to Contractor.

12.03 If the Subcontractor encounters surfaces or Work which he considers unsatisfactory, and which affect the Work under this Subcontract, or if the Subcontractor encounters any other condition whatsoever upon which he may base a claim for extra compensation, extra time or any other type of claim, it shall be his duty to give written notice to the Contractor prior to commencing any Work involving said conditions in order to allow the Contractor to inspect said conditions and to make such arrangements and take such steps as Contractor deems necessary. In the absence of such notice to the Contractor, Subcontractor shall be fully and solely responsible and liable for any and all expenses, loss, or damages resulting from said condition and Contractor shall be relieved of all liability in connection therewith.

12.04 Subcontractor shall carry on Subcontractor's Work and maintain his progress during any arbitration or litigation proceedings.

12.05 All Claims or disputes between the Subcontractor and the Contractor arising out or relating to the Contract, or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise. Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association and shall be made within a reasonable time after the dispute has arisen. The award rendered by the arbitrator or arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Except by written consent of the person or entity sought to be joined, no arbitration arising out of or relating to the General Contract or this Agreement shall include, by consolidation, joinder or in any other manner, any person or entity not a party to the Agreement under which such arbitration arises, unless it is shown at the time the demand for arbitration is filed that (a) such person or entity is substantially involved in a common questions of fact or law, (b) the presence of such person or entity is required if complete relief is to be accorded in the arbitration and the interest or responsibility of such person or entity in the matter is not insubstantial. The Agreement herein among the parties to the Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

12.06 Subcontractor shall make no claim for services rendered or materials furnished by the Subcontractor to the Contractor unless written notice thereof is given by the Subcontractor to the Contractor during the first ten (10) days of the calendar month following that in which the claim originated.

ARTICLE XIII
PROTECTION OF PERSONS AND PROPERTY

13.01 Subcontractor shall not discriminate against any employee or applicant for employment because of race, sex, creed, color, age or national origin.

13.02 Subcontractor shall take necessary precaution to properly protect the finished Work of other trades and Subcontractors.

13.03 Subcontractor shall pay all laborers and mechanics performing Work upon the project no less than the minimum rate of pay and fringe benefits as may be specified in the contract documents, and provide certified payroll reports weekly, or as may be required by Contractor, evidencing payment of such wage rates.

13.04 Keep the building and premises clean, at all times, of debris arising out of the operation of this Agreement. The Subcontractor shall not be held responsible for unclean conditions caused by other Contractors or Subcontractors unless otherwise provided for. Subcontractor shall be given one (1) twenty-four (24) hour notice to remove his trash. If, at the end of the twenty-four (24) hour notice period, the Subcontractor's trash has not been removed, Contractor shall, without further notice, remove trash at a flat rate of fifty dollars (\$50.00) per hour with a minimum two (2) hour charge. A deductive change order shall be issued for cleaning expenses and will be signed by Subcontractor prior to Contractor's payment of any additional money to Subcontractors.

13.05 Comply with all Federal, State and local laws and ordinances applying to the building or structure and to comply and give adequate notices relating to the Work to the proper authorities, and to secure and pay for all necessary licenses or permits to carry on the Work as described in the contract documents as applicable to this Agreement.

13.06 Subcontractor shall comply with all Federal, State, and local statutes, Social Security statutes, and Unemployment Compensation statutes and Worker's Compensation statutes insofar as applicable to the performance of the Agreement.

13.07 Subcontractor shall provide sufficient, safe and proper facilities at all times for the inspection of the Work by the Contractor or his authorized representatives. Work not meeting the specifications or intent of the drawings shall be removed or rebuilt to conform to same at Subcontractor's expenses.

13.08 Subcontractor shall comply with all safety regulations on the Federal, State, and municipal authorities, and particularly agrees to comply with all the requirements of the most current Occupational Safety and Health Act and all regulations promulgated by the U.S. Department of Labor under the terms thereof.

13.09 If hazardous substances of a type of which an employer is required by law to notify its employees are being used on the site by the Subcontractor, the Subcontractor's Sub-subcontractors or anyone directly or indirectly employed by them, the Subcontractor shall, prior to harmful exposure of any employees on the site to such substance, give written notice of the chemical composition thereof to the Contractor in sufficient detail and time to permit compliance with such laws by the Contractor, other Subcontractors and other employers on the site.

13.10 In the event the Subcontractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Subcontractor shall immediately stop Work in the area affected and report the condition to the Contractor in writing. The Work in the affected area shall resume in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the Contractor and Subcontractor, or in accordance with final determination by the Architect on which arbitration has not been demanded, or by arbitration as provided in this Agreement.

ARTICLE XIV
MISCELLANEOUS PROVISIONS

14.01 Subcontractor shall not assign or factor this Subcontract or any payments due, or to become due, thereunder without the written consent of the Contractor; nor subcontract the whole of this Subcontract without the written consent of the Contractor; nor further subcontract portions of this Subcontract without written notification to the Contractor, when such notification is requested by the Contractor.

14.02 Either party may require the Subcontractor to enter into agreements with Sub-subcontractors performing portions of the Work of this Agreement by which the Subcontractor and the Sub-subcontractor are mutually bound, to the extent of the Work to be performed by the Sub-subcontractor, assuming toward each other all obligations and responsibilities which the Contractor and Subcontractor assume toward each other and having the benefit of all rights, remedies and redress each against the other which the Contractor and Subcontractor have by virtue of the provisions of this Agreement.

14.03 Subcontractor shall maintain a qualified Superintendent, approved by Contractor, on the job at all times.

14.04 Subcontractor shall furnish all necessary liens, waivers, affidavits, or other documents which are required to keep Owner's premises free from liens or claims arising out of the furnishings of materials or equipment.

14.05 Only an officer or authorized representative of the Subcontractor's Company presenting a Power of Attorney or letter of authorization will be allowed to sign the Agreement and other pertinent contract documents.

14.06 If any provision of this Agreement is determined to be invalid or unenforceable, such determination shall not affect the enforceability or validity of the balance of the provisions of this Agreement and this Agreement shall, as to those provisions, remain in full force and effect.

14.07 This Agreement shall be construed as a unit and shall not be considered severable. If the Subcontractor fails to perform its obligations under the Agreement and becomes obligated to pay the Contractor a sum of money which exceeds the amount of money retained by the Contractor under the terms of this Agreement, the Contractor may, at its option, withhold or deduct the amount of money due from the Subcontractor under this Agreement from the monies the Contractor may be obligated to pay to the Subcontractor under any other Agreement between the Subcontractor and the Contractor.

14.08 All parties agree that in the event legal action becomes necessary the same will be filed and tried in Collin County, Texas.

14.09 Contractor shall conduct their own punch list prior to Owner/Architect punch list. All items pertaining to Contractor's punch list must be completed independent of and prior to Owner/Architect punch list.

14.10 Contractor shall be bound to the Subcontractor by all the obligations that the Owner assumes to the Contractor under the contract documents and by all the provisions thereof affording remedies and redress to the Contractor from the Owner, insofar as applicable to this Agreement.

14.11 Contractor shall not issue or give any instructions, orders or directions directly to employees or workmen of the Subcontractor other than the persons designated as the authorized representative(s) of the Subcontractor.

14.12 All notices required to be given under this Agreement shall be deemed delivered when Federal Expressed, faxed, or deposited in the United States mail, first class, postage prepaid to the attention of Project Manager.

14.13 This Agreement contains the entire agreement of the parties. All prior Agreements respecting the subject matter hereof are of no force or effect. All modifications to this Agreement shall be in writing, executed by both parties.

14.14 In the event there is a conflict between the contract documents and any provisions of this Agreement, the terms of this Agreement shall govern.

14.15 In the event either party is required to obtain the services of an attorney to enforce this Agreement, the prevailing party, in addition to other remedies available, shall be entitled to recover reasonable attorneys' fees.

END



Subcontractor Guidelines

The following guidelines are to be adhered to by all Subcontractors working on Criterion Contractors Inc. projects. This document is a part of the Subcontractor Agreement between Criterion and the subcontractor.

Everyone is expected to use common sense and courtesy in all matters relating to customers, co-workers and other subcontractors on site.

1. Dress Code, Safety & Security

- A. Close toed shoes to be worn on jobsite at all times.
- B. Long pants and sleeved shirt to be worn on jobsite at all times.
- C. Hardhats to be worn at the discretion of the jobsite superintendent.
- D. All injuries are to be reported to Criterion Contractors Inc.
- E. Most projects have lockboxes with keys to the area. The last person out of the space for the day are responsible to assure everything is secured and the worksite is in a safe condition. Contact the jobsite superintendent if there is any question on this.

2. Drinking/ Drugs: There is absolutely no drinking or use of drugs allowed on the job or prior to coming to the job site. Anyone suspected of being under the influence will be escorted from the job site.

3. Profanity: Profanity will not be tolerated on the jobsite, nor will radios with loud or offensive music.

4. Jobsite Cleanliness:

- A. We often work in “office” environments. Subcontractors are expected to keep trash, dust, tracking of debris to a minimum consistent with conditions at the site.
- B. Subcontractors are required to police their own trash – Jobsites should be left in a clean and safe condition at the end of each day. Criterion Contractors Inc. will not cleanup trash left by subcontractors. **A back charge of \$50 (minimum, actual cost if greater) for each occurrence of clean-up from a subcontractor at work on the jobsite.**
 - i. **On projects where a dumpster is on site** – all trash is to be taken to the dumpster at the end of each day.
 - ii. **On projects where a dumpster is not on site** – trash needs to be kept orderly and all food trash is to be placed in a trash receptacle provided on site.

Subcontractor Signature

Criterion Contractors Inc. Signature

PO Box 2325
Allen, TX 75013

972-359-0064 Office
972-727-4968 Fax



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Accounting Procedures

Following are the Standard Operating Procedures for Criterion Contractors Inc.

General Information:

1. Criterion Contractors must have a current **Master/Subcontractor Agreement, IRS Form W-9, and Certificate of Liability Insurance (both General Liability & Texas Workers Compensation)** on file before Subcontractors will get paid. Note: \$25 per thousand of the Subcontractor's Contract will be withheld until the Certificate of General Liability is received. (TWC form if no workers compensation insurance is carried by subcontractor)
2. All subcontractors will be paid according to the stipulations stated in the Master Subcontract Agreement.

Progress Invoicing:

1. Draws/invoices must be received in our office by the **25th** of each month for all work completed through the end of the month. **All draws/invoices must** be accompanied by Release of Lien (master copy provided in Subcontractor Agreement Packet). Release of Lien forms **MUST** be notarized. (Faxed copies can be sent, but originals must be received in our office)
2. Upon receipt of funds from Owner (typically the 15th–20th of the following month, depending on the contract with the owner) checks will be issued if all Subcontractor paper work is in order (#1 above and #1 under general information).
3. All invoices over \$ 1,000.00 are subject to 10 % retainage. Retainage will be billed upon completion of the job and minimum of (4) copies of close out documents (if required) must be received before Retainage will be processed.

One Time Invoicing:

1. Upon completion of the job – subcontractors will submit an invoice for the work done along with a Release of Lien (master copy provided in the Subcontractor Agreement Packet). Release of Lien forms **MUST** be notarized. (Faxed copies can be sent, but originals must be received in our office).
2. After receipt of payment from owner, Criterion Contractors Inc. will issue payment to subcontractors who are 100% complete and have required paperwork on file (#1 under General Information, invoice and notarized release of lien)

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
	<input type="checkbox"/> Exempt payee	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a “saving clause.” Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the “Name” line. You may enter your business, trade, or “doing business as (DBA)” name on the “Business name/disregarded entity name” line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the “Name” line and any business, trade, or “doing business as (DBA) name” on the “Business name/disregarded entity name” line.

Disregarded entity. Enter the owner's name on the “Name” line. The name of the entity entered on the “Name” line should never be a disregarded entity. The name on the “Name” line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the “Name” line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the “Business name/disregarded entity name” line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the “Name” line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the “Name” line is an LLC, check the “Limited liability company” box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter “P” for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter “C” for C corporation or “S” for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the “Name” line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the “Name” line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
 2. The United States or any of its agencies or instrumentalities,
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION
7551 Metro Center Drive, Suite 100
Austin, Texas 78744

If you are not certain whether all parties meet the requirements for entering into this agreement, you may wish to consult an attorney.

Texas Workers' Compensation Act, Texas Labor Code, Section 406.121(2) defines "independent contractor" as follows: (1) "Independent contractor" means a person who contracts to perform work or provide a service for the benefit of another and who ordinarily: (A) acts as the employer of any employee of the contractor by paying wages, directing activities, and performing other similar functions characteristic of an employer-employee relationship; (B) is free to determine the manner in which the work or service is performed, including the hours of labor of or method of payment to any employee; (C) is required to furnish or have his employees, if any, furnish necessary tools, supplies, or materials to perform the work or service; and (D) possesses the skills required for the specific work or service.

AGREEMENT BETWEEN GENERAL CONTRACTOR AND SUBCONTRACTOR
TO ESTABLISH INDEPENDENT RELATIONSHIP

Notice of Agreement

The undersigned General Contractor and the undersigned Subcontractor hereby declare that:

- (A) the Subcontractor meets the qualifications of an Independent Contractor under Texas Workers' Compensation Act, Texas Labor Code, Section 406.121;
- (B) the Subcontractor is operating as an independent contractor as that term is defined under Section 406.121 of the Act;
- (C) the Subcontractor assumes the responsibilities of an employer for the performance of work; and
- (D) the Subcontractor and the Subcontractor's employees are not employees of the General Contractor for purposes of the Act.

TERM (DATES) OF AGREEMENT: FROM: _____

TO: _____

Name of General Contractor

Name of Subcontractor

LOCATION OF EACH AFFECTED JOB SITE (OR STATE WHETHER THIS IS A BLANKET AGREEMENT):

Estimated number of employees affected:

THIS AGREEMENT SHALL TAKE EFFECT NO SOONER THAN THE DATE IT IS SIGNED.

General Contractor's Affirmation

If the General Contractor's workers' compensation carrier changes during the effective period of coverage, it is advisable for the General Contractor to file this form with the new insurance carrier.

Federal Tax I. D. Number

Signature of General Contractor

Date

Address (Street)

Printed Name of General Contractor

Address (City, State, Zip)

Subcontractor's Affirmation

Federal Tax I. D. Number

Signature of Subcontractor

Date

Address (Street)

Printed Name of Subcontractor

Address (City, State, Zip)

Four copies of this form must be completed: This agreement must be filed by the General Contractor with workers' compensation insurance carrier of the General Contractor within 10 days of the date of execution. The original must be filed with the insurance carrier by PERSONAL DELIVERY OR REGISTERED OR CERTIFIED MAIL. Both the General Contractor and the Subcontractor must also retain a copy of the agreement.

Division Data Stamp Here



Criterion Contractors Inc.
PO Box 2325
Allen, TX 75013
972-359-0064 Office
972-727-4968 Fax

WAIVER OF LIEN

Whereas, _____ (Contractor) has been employed by
_____ Criterion Contractors Inc. _____, (Company) to furnish certain material, supplies, equipment or labor for
or in connection with improvements owned by _____ and located at
_____ collectively referred to as the ("Premises"); and

WHEREAS, the undersigned is duly authorized to execute this Waiver of Lien for and on behalf of
the Contractor:

NOW THEREFORE, the Contractor, for and in consideration of the receipt of _____
dollars (\$ _____) hereby waives, and
releases the Owner of the premises and the Company from any and all liens, rights of lien or claims of
whatsoever kind or character on or against the Premises or the improvements located thereon on account
of any and all labor, supplies, equipment or material furnished for, in connection with or incorporated in the
Premises by the Contractor on or before the date hereof; represents and warrants that no other person or
party has any right to a lien or claim on account of any labor or work performed or material, supplies or
equipment furnished by, to or through the Contractor, on or before the date hereof, and agrees to
indemnify, defend and hold the Owner and the Company harmless from and against any and all claims or
liens for any labor, material or services furnished for or in connection with or incorporated on the Premises
by, through, or to the Contractor prior to the date hereof.

This Waiver of Lien is given in order to induce the Company to pay the amount indicated above, and upon
receipt of such amount by the Contractor, this release may be recorded, becomes valid, enforceable and full
effect.

SUB. INVOICE #: _____

CONTRACTOR

P.O. #: _____

By: _____

Title: _____

Dated: _____

State of: _____

County of: _____

BEFORE ME, a Notary Public in and for said County and State, personally appeared
_____, who acknowledged the execution of the foregoing
Waiver of Lien, and who, having been sworn, stated that the representations therein
contained are true.

Witness my hand and Seal this _____, day of _____, _____.

My Commission Expires: _____

Notary Public:
