

ARIZONA SUPPLEMENTAL TERMS AND CONDITIONS

VERSION 1.0, REVISED JULY 1, 2018

The following clauses apply to Work in the State of Arizona. To the extent these clauses conflict with any term or condition in the *Standard Terms and Conditions*, the Parties shall (i) endeavor to interpret the clauses in harmony, otherwise (ii) these *Arizona Supplemental Terms and Conditions* take precedence.

Subcontractor agrees to flow down and incorporate all applicable clauses to its Lower Tier Subcontractors and its Lower Tier Suppliers.

1. REVISIONS TO THE STANDARD TERMS AND CONDITIONS.

1.1 Replace *Section 3.3 Partial Payments and Retainage* of the *Standard Terms and Conditions* in its entirety as with the following:

“3.3 Partial payments shall be due to Subcontractor in the amount of the Work in place which has been approved by the Contractor and the Owner less any retainage withheld by the Owner for that Work. If the Contract Documents allow Contractor partial payments for stored materials, partial payments shall also be due to Subcontractor in the amount of the stored materials which have been approved by Contractor and the Owner less any retainage withheld by the Owner for the stored materials. For purposes of determining partial payments, Subcontractor shall submit to Contractor for approval a breakdown of the total price of Subcontract Agreement showing the amount included therein in each principal category of work within five (5) days of the execution of the Subcontract Agreement. In the event Contractor disapproves said breakdown, Contractor shall establish a reasonable breakdown that shall serve as the basis for partial payments.”

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1.2 Replace *Section 3.4 Time for Payment* of the *Standard Terms and Conditions* in its entirety with the following:

“3.4 Partial payments for satisfactory performance, subject to withholdings or off-sets as provided herein, shall be due within seven (7) days following receipt of payment from the Owner by Contractor. No partial payment made under this Subcontract Agreement shall be considered an acceptance of the Work, in whole or in part, and Subcontractor agrees that Contractor’s receipt of payment from the Owner is a condition precedent to Subcontractor’s right to payment from Contractor. Subcontractor further agrees and acknowledges that it is not entitled to receive any payments for work performed in the event that Contractor is not paid by the Owner for such work; it is relying solely on the credit of the Owner, not the Contractor, in entering into this Subcontract; and that payment from the Owner to Contractor is the sole and exclusive source of funding from which the Subcontractor shall be paid.”

1.3 Replace *Section 3.8 Final Payment* of the *Standard Terms and Conditions* in its entirety with the following:

“3.8 Final payment, subject to withholdings or off-sets permitted hereunder, shall be made after Subcontractor’s work has been completed and approved by the Owner, satisfactory proof of payment of all amounts owed by Subcontractor in connection with the Subcontract Agreement has been provided, and the Work is complete. Receipt of final payment from the Owner shall be a condition precedent to any obligation of Contractor to pay Subcontractor. Subcontractor agrees and acknowledges that it is not entitled to receive final payment in the event that Contractor is not paid by the Owner for such work; it is relying solely on the credit of the Owner, not the Contractor, in entering into this Subcontract; and that payment from the Owner to Contractor is the sole and exclusive source of funding from which the Subcontractor shall be paid.”

1.4 Replace *Section 3.9 Partial and Final Releases* of the *Standard Terms and Conditions* in its entirety as with the following:

“3.9 As a condition for each partial payment, and as a condition for final payment, Subcontractor shall execute Arizona Statutory Unconditional Waiver and Release forms pursuant to ARIZ. REV. STAT. § 33-1008, waiving all claims arising from prior work, including, but not limited to, claims against Contractor’s payment bond and mechanic’s liens; certifying that Subcontractor has paid all of its bills, taxes or other obligations; and indemnifying and holding Contractor harmless from all of the foregoing. If requested by Contractor, as a further condition for each partial payment and as a condition to final payment, Subcontractor shall furnish to Contractor executed Arizona Statutory Unconditional Waivers and Releases pursuant to ARIZ. REV. STAT. § 33-1008 from all subcontractors, suppliers and materialmen of Subcontractor. All requests for payment shall be submitted in a format acceptable to Contractor. Receipt of each partial payment from the Owner shall be a condition precedent to any obligation of Contractor to

pay Subcontractor. Subcontractor agrees and acknowledges that it is not entitled to receive any partial payments in the event that Contractor is not paid by the Owner for such work; it is relying solely on the credit of the Owner, not the Contractor, in entering into this Subcontract; and that payment from the Owner to Contractor is the sole and exclusive source of funding from which the Subcontractor shall be paid.”

2. EVERIFY.

The Subcontractor shall use the E-Verify system as the means of verifying that their employees hired after December 31, 2007 are eligible to work in the United States. The Subcontractor shall include this clause in all agreements with its Lower Tier Subcontractors and Lower Tier Suppliers and require its Lower Tier Subcontractors and Lower Tier Suppliers include this clause in their agreements with their subcontractors and suppliers at every tier.

3. WORK FOR A PUBLIC BODY.

When the Owner is a public body, the following clauses also apply to the Subcontractor’s Work:

- 3.1 Subcontractor will meet the requirements of ARIZ. REV. STAT. § 34, Art. 3 for eligibility to receive public funds.
- 3.2 ARIZ. REV. STAT. § 34-302 says that only persons who have been for not less than one year a *bona fide* resident of Arizona shall be employed in performance in any public work. A public works contract is defined in ARIZ. REV. STAT. § 34-321 as “a contract to which the state or a political subdivision is a party involving the employment of laborers, workmen or mechanics in the construction, alteration or repair of public buildings or improvements.” It shall be the responsibility of the Subcontractor to comply with these laws, where applicable.
- 3.3 Subcontractor will meet the requirements of ARIZ. REV. STAT. § 34, Art. 3 for eligibility to receive public funds.