

**GENERAL TERMS AND CONDITIONS**  
**(ACCESIBLE DOORS CONTRACT)**

**I.**  
**DEFINITIONS AND GENERAL REPRESENTATIONS**

**Section 1.01. Definitions.** Unless the context hereof clearly indicates otherwise, the capitalized words, terms and phrases defined in the Accessible Doors Contract, by and between the Village and the Contractor, and otherwise herein shall have the same meanings for all purposes of these General Terms and Conditions. In addition, in all cases under the Contract Documents, the singular includes the plural, the plural includes the singular and a reference to any gender includes both genders and the neuter, as the case may be.

**Section 1.02. General Representations.** The Village and the Contractor, as applicable, each hereby represents and warrants to the other that (i) each has the power and authority to enter into and perform its obligations and undertakings under the Contract Documents according to their respective terms and provisions, (ii) each has duly authorized the execution and delivery of the Contract, including the other related Contract Documents, (iii) neither the Accessible Doors Contract, including the other related Contract Documents, nor any of the respective terms and provisions thereof, contravene or constitute a default under or violation of any other agreement, instrument or indenture or any requirement of law, as the same concern them, respectively; and (iv) there is no action, suit, proceeding or investigation, at law or in equity, or before or by any public board or body, pending, or to the knowledge of the Village or the Contractor threatened, against or affecting either of them, respectively, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Contract Documents or which would materially affect their respective abilities to comply with the terms of the Contract Documents and incidental and related documents and other instruments.

**II.**  
**CONTRACTOR OBLIGATIONS**

**Section 2.01. Limitation of Cost.** If the Contractor has agreed to perform the Work specified and complete all obligations under the Contract Documents within a not to exceed dollar amount specified under the Contract Documents for the Work (including a dollar amount for each phase of the Work, if such Work is to be completed in one or more phases) during the Contract Term, the Contractor agrees to notify the Village in writing no later than when the amounts billable under the Contract Documents reach ninety percent (90%) of the dollar amount, if any, actually specified for the Work (including the dollar amount for any applicable phase of the Work, if any such Work is to be completed in one or more phases) during the Contract Term. The Contractor will include in such notice an estimate of the amount required to complete the Work (including the dollar amount for any applicable phase of the Work, if any such Work is to be completed in one or more phases) for the remainder of the applicable period of the Contract Term. The Village will not be obligated to reimburse the Contractor for billing in excess of the not to exceed amount, if any, set forth in the Contract Documents for the Work (including the dollar amount for each phase of the Work, if any such Work is to be completed in one or more phases) during the Contract Term, unless such increased costs are (1) due to a change in the Scope of Work identified prior to performance of the Work and as otherwise specified in Section 2.02 below or (2) identified after initiation of the

Work but prior to expenditure and covered by an amendment to the not to exceed dollar amount, if any, specified for the Work (including the dollar amount for any applicable phase of the Work, if any such Work is to be completed in one or more phases) during the Contract Term that increases such amount.

**Section 2.02. Change in Scope of Work.** The Village may order changes in the Scope of Work consisting of additions, deletions, or other revisions within the general scope of the Work to be provided by the Contractor under the Contract Documents (collectively, a “**Change Order**”). No claims may be made by the Contractor that the Scope of Work or the Contractor’s accessible work has or have been changed so as to require any increase in the amount of compensation to the Contractor or other adjustment to the Contract Documents, unless any such Change Order has been made in writing and signed by both the Village and the Contractor.

If the Contractor believes that any particular Change Order is not within the Scope of Work, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify the Village in writing of any such claim or dispute. If the Village believes that the particular Work is within the Scope of Work under the Contract Documents as written, the Contractor will be ordered to and shall continue with the Work as changed and at the cost stated for the Work under the Contract Documents as written. Any Contractor ordered to proceed with such Work is not prohibited from filing a claim or dispute against the Village as a result of any Change Order to the Scope of Work. This Section 2.02 only requires that such Work proceed while any such claim or dispute between the Contractor and the Village in connection therewith is being resolved in accordance with Section 6.04 hereof.

**Section 2.03. Subcontractors and Suppliers.** The Contractor shall furnish to the Village a written list of all proposed subcontractors and suppliers and the nature of the Work being subcontracted or supplied prior to commencing any Work under the Contract Documents. The Village will promptly reply to the Contractor in writing stating whether or not the Village, after due investigation, has any objection to any such proposed subcontractor or supplier. The Contractor shall not employ any subcontractor or supplier against whom the Village may have reasonable objection. No substitution or change shall be made by the Contractor to such subcontractor and supplier list after its submission to the Village without prior written approval by Village. All Work performed for the Contractor by any subcontractor will be pursuant to an appropriate written agreement which specifically binds the subcontractor to the applicable terms and conditions of the Contract Documents, but no contractual relationship shall exist between any subcontractor and Village unless the Contract Documents are terminated and the Village, in writing, elects to assume any such subcontract. Upon request, the Contractor shall provide copies of any subcontracts and purchase orders to the Village. The Contractor hereby assigns to the Village and its assigns all its interest in any subcontracts and purchase orders now existing or hereinafter entered into by Contractor for performance of any part of the Work, which assignment will be effective upon termination of the Contract Documents by the Village in any manner as provided in the Contract Documents but only as to those subcontracts and purchase orders which the Village may elect to assume in writing. All subcontracts and purchase orders shall provide that documents or instruments are freely assignable by Contractor to the Village and its assigns. Such assignment is part of the consideration from the Village for entering into the Contract Documents with the Contractor and may not be withdrawn prior to the end of the Contract Term or any extension thereof.

**Section 2.04. Contractor Personnel and Subcontractors.** The day-to-day supervision and control of the Contractor's employees, agents and subcontractors is the responsibility solely of the Contractor. The Contractor covenants and agrees to be fully responsible to the Village for any acts or omissions of its employees, agents or subcontractors or any other person employed by any of them. Nothing contained in any of the Contract Documents shall create or impose any contractual relationship between any of the Contractor's employees, agents or subcontractors and the Village.

**Section 2.05. Safety and Protection.** The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to: (i) all persons on the site of the Work or who may be affected by the Work; (ii) all the Work and all parts, materials, supplies and equipment to be used in connection therewith, whether in storage on or off the site of the Work; and (iii) other property at the site of the Work or adjacent thereto, including any building, any building improvements, personal property, trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not otherwise designated for demolition, removal, relocation or replacement by the Village. The Contractor shall comply with all applicable laws, rules, ordinances, codes and regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify any owner of adjacent property and of underground facilities and any utility owners when prosecution of the Work may affect any of them, and shall cooperate with them in the protection, removal, relocation and replacement of any of their respective property.

**Section 2.06. Quality Control.** The Contractor shall institute and maintain throughout the Contract Term a properly documented quality control program designed to ensure that the Work is provided at all times and in all respects in accordance with the Contract Documents. Such program shall include providing daily supervision and conducting frequent inspections of the Contractor's employees, agents and subcontractors and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the Village in accordance with Section 7.02 hereof.

**Section 2.07. Change in Conditions.** The Contractor shall promptly notify the Village of any legal impediment, change of circumstances, pending litigation, or any other event or condition that may adversely affect the Contractor's ability to carry out any of its obligations under the Contract Documents.

### **III. PROJECT AND PROJECT SITE**

**Section 3.01. Project.** It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be demolished in accordance with the Contract Documents. Any Work, including any labor, parts, materials, supplies and equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result are required to be furnished and performed by the Contractor whether or not specifically called for in any of the Contract Documents.

**Section 3.02. Project Site.** The Village shall furnish or otherwise make available to the Contractor the site upon which the Work is to be performed, together with rights-of-way and easements for access thereto (the “**Project Site**”). If any unknown physical condition of an unusual nature which differs materially from conditions ordinarily encountered or generally recognized as inherent in the Work provided for in the Contract Documents, or of any Hazardous Substances (as defined in Section 4.09 hereof) are uncovered or revealed at the Project Site which were not shown, indicated or identified in the Scope of Work or any of the other Contract Documents, the Contractor shall, immediately after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith, notify the Village and thereafter confirm such notice in writing. The Village will promptly review the pertinent conditions, determine the necessity of obtaining additional tests or exploration with respect thereto, and either issue a Change Order as provided in Section 2.03 hereof in connection with an unknown physical condition or take corrective action in connection with any Hazardous Substances revealed at the Project Site. The Village shall not be responsible for any physical condition upon the Project Site caused by, or for any Hazardous Substances brought to the Project Site by, the Contractor, or any of its subcontractors, suppliers, agents or anyone else for whom the Contractor is responsible.

#### **IV.** **APPLICABLE LAWS AND REGULATIONS**

**Section 4.01. Applicable Law.** The Contract Documents shall be governed in all respects by and construed in accordance with the laws of the State of Illinois, and any litigation with respect thereto shall be brought in the Circuit Court of the State of Illinois located in Champaign County.

**Section 4.02. Compliance with Laws and Regulations.** In connection with the performance of any of the Work under the Contract Documents, the Contractor shall be responsible for complying with all applicable federal, Illinois, and local laws, ordinances, codes, rules, regulations and orders of any and all such governmental bodies, agencies, and authorities and courts having jurisdiction.

**Section 4.03. Ethics in Public Contracting.** The Contract Documents hereby incorporate by reference, but are not limited to, the provisions of law contained in Article 33E. “Public Contracts” of the Criminal Code of 1961 of the State of Illinois (720 ILCS 5/33E-1 et seq.), as supplemented and amended (the “**Illinois Criminal Code**”). The Contractor hereby certifies, in accordance with Section 33E-11 of the Illinois Criminal Code, that the Contractor is not barred from contracting with the Village as a result of a violation of Section 33E-4, “Bid rigging” or Section 33E-5, “Bid rotating”, of the Illinois Criminal Code; that its bid or proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other potential contractor, supplier, manufacturer, or subcontractor in connection with the bid or proposal; and that it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value.

**Section 4.04. Employment Discrimination.** During the performance of the Contractor under the Contract Documents, the Contractor covenants and agrees to each of the following to the extent applicable:

- (i) The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap, or national origin. The Contractor agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (ii) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an Equal Opportunity Employer.
- (iii) Notices, advertisements, and solicitations placed in accordance with federal and Illinois law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.
- (iv) The Contractor shall include the provisions of the foregoing paragraphs 1, 2, and 3 in every subcontract or purchase order of more than \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

**Section 4.05. Drug-Free Work Place.** To the extent applicable, the Contractor covenants and agrees to comply with the provisions of the federal Drug-Free Work Place Act of 1988 (41 USC Section 701 et seq.) and the Illinois Drug-Free Work Place Act (30 ILCS 580/1 et seq.).

**Section 4.06. Application of Local Government Prompt Payment Act.** The Village and the Contractor mutually covenant and agree that the provisions of the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 et seq.) shall not be applicable to any of the provisions of the Contract Documents.

**Section 4.07. Certificates, Licenses and Permits.** The Contractor shall procure, pay for and provide true, correct and complete copies of all valid licenses, certificates and permits required for the Contractor's performance of the Work under the Contract Documents. Such copies shall be delivered to the Village no later than five (5) days prior to the commencement date of the Contract Term or such other date as is specified in any notice to proceed, whichever is earlier. True, correct and complete copies of such licenses and certificates and permits as renewed shall be provided to the Village within twenty-four hours of any such renewal which occurs at any time during the remainder of the Contract Term.

**Section 4.08. Taxes.** Except to the extent that the Village is wholly exempt from the payment thereof, the Contractor shall pay all federal, state and local sales, consumer, use, occupational, service and similar taxes required to be paid by the Contractor in accordance with any law or regulation which may be applicable to the performance of the Work under the Contract Documents. The Village is exempt from sales taxes imposed by the State of Illinois and from federal excise taxes.

**Section 4.09. Environmental Protection.** The Contractor covenants and agrees that its performance of the Work under the Contract Documents shall comply with all applicable "**Environmental Laws**". As used in this Section 4.09, "Environmental Laws" means any applicable statute, code, enactment, ordinance, rule, regulation, permit, consent, approval, authorization, license, judgment, order, writ, common law rule (including without limitation the

common law respecting nuisance and tortious liability), decree, injunction or other requirement having the force and effect of law, whether local, state or federal, at any time in force or effect relating to: (i) emissions, discharges, spills, releases or threatened releases of “Hazardous Substances” into ambient air, surface water, ground water, watercourses, publicly or privately-owned treatment works, drains, sewer systems, wetlands, septic systems or onto land; (ii) the use, treatment, storage, disposal, handling, manufacturing, transportation or shipment of “Hazardous Substances”; (iii) the regulation of storage tanks; or (iv) otherwise relating to pollution or the protection of human health or the environment, where “**Hazardous Substances**” means at any time any substance, waste, pollutant, contaminant or material, in solid, liquid or gaseous form, which: (i) is a substance regulated or defined or designated as hazardous, extremely or imminently hazardous, dangerous, or toxic pursuant to any local, state or federal governmental authority or any Environmental Laws; or (ii) is a substance with respect to which such a governmental authority otherwise requires environmental investigation, monitoring, reporting, or remediation; including but not limited to, (A) all substances, wastes, pollutants, contaminants and materials regulated, or defined or designated as, hazardous, extremely or imminently hazardous, dangerous or toxic, under the following federal laws and their State of Illinois counterparts, as well as any implementing regulations thereof: the Hazardous Materials Transportation Act (42 USC Section 1801 et seq.) the Resource Conservation and Recovery Act (42 USC Section 6901 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 USC Section 9601 et seq.), the Clean Water Act (33 USC Section 1251 et seq.), the Safe Drinking Water Act (33 USC Section 300f et seq.), the Atomic Energy Act (42 USC Section 2011 et seq.), the Toxic Substances Control Act, (15 USC Section 2601 et seq.) the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC Section 136 et seq.), the Clean Air Act (42 USC Section 7401 et seq.), and the Emergency Planning and Community Right to Know Act (42 USC Section 11011 et seq.); (B) petroleum and petroleum products, including crude oil and any fractions thereof; (C) natural gas, synthetic gas, and any mixtures thereof; (D) radon; (E) radioactive substances; (F) asbestos; (G) urea formaldehyde; and (H) polychlorinated biphenyls.

In addition to, and in no way limiting, the Contractor’s duties and obligations as set forth in the first paragraph of this Section 4.09 immediately above, should the Contractor breach any of its duties and obligations as set forth in the first paragraph of this Section 4.09, or if contamination by any Hazardous Substances otherwise occurs for which the Contractor is legally liable or responsible, the Contractor shall indemnify, hold harmless and, at the Village’s option, defend the Village and any of its employees, agents or other contractors, from any and all claims, demands, damages, expenses, fees, costs, fines, penalties, suits, proceedings, actions, causes of action, and losses of any kind and nature, including, without limitation, damages and sums paid in settlement of claims and for attorney fees, consultant fees, and expert fees that may arise during or after the Contract Term under the Contract Documents from discharges, emissions, spills, storage, disposal or any other action by the Contractor giving rise to Village liability, civil or criminal, or other Village responsibility under any Environmental Laws that may be incident to the performance of Work by the Contractor under the Contract Documents. Any condition or activity giving rise to the aforesaid Village liability or Village responsibility which are not a result of or related to any action by or omission of the Contractor in connection with its performance of the Work under the Contract Documents is not subject to such indemnification.

V.  
**LIABILITY, INDEMNITY AND INSURANCE**

**Section 5.01. Liability and Indemnity.** The Village shall not be responsible for, and the Contractor shall assume, all liability to persons or damage to property which may arise out of or result from the negligence of the Contractor or any of the Contractor's agents, employees, subcontractors, assigns, or the invitees of any of them, in connection with the performance of the Work under the Contract Documents. To the fullest extent permitted by law, the Contractor shall indemnify, save, hold harmless, and defend the Village, its officers, employees and agents, from and against all suits, claims, demands, actions, liabilities, judgments, costs and attorneys' fees, including any by the Contractor or any of its agents, employees or subcontractors, arising out of, or in any manner predicated upon, personal injury to or death of any person or damage to property arising out of or resulting from the Contractor's negligent acts or omissions in the carrying out of any of the terms and conditions of any of the Contract Documents and any and all other negligent acts or omissions of the Contractor, its agents, employees, subcontractors or assigns, or the invitees of any of them, incident to the performance of any of the Work under the Contract Documents.

In claims against the Village or its officers, employees or agents by an employee of the Contractor or any of its agents or subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section 5.01 shall not be limited by a limitation on any amount or type of damages, compensation or benefits payable by or for the Contractor or any of its agents or subcontractors under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

**Section 5.02. Minimum Insurance Requirements.** The Contractor shall not commence any Work under the Contract Documents until the Contractor has obtained all insurance coverages required under the Minimum Insurance Requirements as attached to the Accessible Doors Contract (the "**Minimum Insurance Requirements**") and such insurance has been approved by the Village, nor shall the Contractor allow any subcontractor to commence Work on a subcontract for any portion of the Work until such insurance coverages required of such subcontractor has been so obtained and approved by the Village, and certificates or policies from the applicable insurance companies shall be delivered to the Village in accordance with Section 5.04 below. Such insurance coverages shall include but not be limited to, insurance against any and all assumed contractual liability under the Contract Documents, to afford protection with limits of liability in amounts approved from time to time by the Village, but not less than the amounts specified in the Minimum Insurance Requirements.

**Section 5.03. Policy Provisions.** All insurance which the Contract Documents require the Contractor to carry or maintain or cause to be carried or maintained by any subcontractor pursuant to the Minimum Insurance Requirements and Section 5.02 above shall be in such form and for such periods of time as the Village may require or approve and with such financially responsible insurers as are licensed to do business in the State of Illinois. All policies or certificates issued by the respective insurers for comprehensive liability and automobile insurance will name the Village as an additional insured, provide that any losses shall be paid notwithstanding any act or failure to act or negligence of the Contractor or the Village or any other person; provide that no cancellation, reduction in amount, or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by the Village of written notice thereof; provide that the insurer shall have no

right of subrogation against the Village, its officers, agents, or employees; and be reasonably satisfactory to the Village in all other respects. In no circumstances will the Contractor or any subcontractor thereof be entitled to assign to any third party rights of action which the Contractor or any subcontractor thereof may have against the Village.

**Section 5.04. Delivery of Policies.** Before or at the time of the execution and delivery of the Contract Documents, the Contractor shall deliver or cause to be delivered to the Village certificates or policies of insurance evidencing the Minimum Insurance Requirements and other requirements required by Section 5.03 above. The Contractor shall similarly deliver or cause to be delivered each subcontractor's policies of required insurance before any such subcontractor commences any Work. No later than thirty (30) days prior to the expiration of any such policy, the Contractor shall also deliver or cause to be delivered all such certificates or policies of insurance evidencing each renewal policy having the same coverages and limits as may be provided in the Minimum Insurance Requirements and approved by the Village.

## **VI.** **TERMINATION, ENFORCEMENT, DISPUTES AND REMEDIES**

**Section 6.01. Termination.** The performance of Work by the Contractor under the Contract Documents may be terminated by the Village in whole or in part in the event of any default by the Contractor where the Contractor: (i) fails to perform the Work as specified in the Contract Documents to the satisfaction of the Village; (ii) violates any other term, condition, covenant or condition of the Contract Documents; or (iii) voluntarily petitions for bankruptcy, is adjudged bankrupt or makes a general assignment for the benefit of creditors or if a receiver is appointed on account of the Contractor's insolvency. The Village shall effect any such termination for default by giving written notice of termination to the Contractor at least five (5) days before the date of any such termination, specifying the nature of default and the date upon which such termination becomes effective unless certain corrective or remedial actions satisfactory to the Village are taken by the Contractor. The Village shall have the sole discretion to determine whether any such corrective or remedial actions taken by the Contractor are sufficient to cure any such default without waiving its right to terminate for default under this paragraph. Any such termination for default shall automatically be effective on the date specified in such notice with no further notice from the Village unless the Village shall otherwise have approved and accepted any such corrective or remedial actions of the Contractor in writing.

Upon the giving of any such notice of termination in the event of any default, the Contractor, except as otherwise directed by the Village in any such notice, shall: (i) stop performance of the Work under the Contract Documents on the date specified in the notice; (ii) place no further orders or subcontracts for parts, materials, supplies, equipment, services, or facilities except as necessary for completion of such portion of the Work not terminated; (iii) terminate all subcontracts and purchase orders as of the date specified in the notice; and (iv) promptly settle all outstanding liabilities and claims.

In the event the Village terminates the performance of Work under the Contract Documents because of the default of the Contractor, the Contractor shall be liable for all excess costs, expenses and fees that the Village is required to expend to complete the Work covered by the Contract Documents whether by separate contract or from with its own resources.

**Section 6.02. Unsatisfactory Work Threatening Health, Safety or Welfare.** If, at any time, the service performed or Work done by the Contractor is considered by the Village to create a condition that threatens the health, safety, or welfare of the community, the Contractor shall, on being verbally or otherwise notified by the Village, immediately correct any such deficient service or Work. In the event the Contractor fails, after such notice, to correct any such deficient service or Work immediately, the Village shall have the right to order the correction of the deficiency by separate contract or with its own resources at the sole cost and expense of the Contractor.

**Section 6.03. Recovery of Money.** Whenever, under any provision of the Contract Documents, any sum of money shall be recoverable from or payable by the Contractor to the Village, the same amount may be deducted from any sum due to the Contractor under the Contract Documents or under any other contract between the Contractor and the Village. The Village shall have the right to make a reasonable estimate or any such amount in the event that the cost, charges or expenses in connection therewith have not otherwise been invoiced to or otherwise expended or incurred by the Village. This right of the Village is in addition and without prejudice to any other right the Village may have to claim the amount of any loss or damage suffered by the Village on account of any act or omission of the Contractor.

**Section 6.04. Claims and Disputes of Contractor.** All claims and disputes of the Contractor shall first be referred to the Administrative Officer of the Village (the “**Manager**”) for review and decision. All claims or disputes shall be made in writing to the Manager, not more than ten (10) days from the occurrence of the event which gives rise to the claim or dispute, or not more than ten (10) days from the date that the Contractor knew or should have known of any such matter forming the basis of any such claim or dispute. Unless any claim or dispute is made by the Contractor in accordance with such time requirements, any such claim or dispute shall be waived. In addition, any claim or dispute not submitted before final payment shall be waived. The Manager shall render a written decision within fifteen (15) days following receipt of a written demand for the resolution of any such claim or dispute by the Contractor. The Manager’s decision shall be final and binding upon the Contractor unless the Contractor elects to appeal such decision by providing written notice to the President and Board of Trustees of the Village (the “**Corporate Authorities**”) of such election within fifteen (15) days of the date that notice of such decision is given to the Contractor. The Contractor must present a written narrative of the claim or dispute that is the subject of such appeal, together with complete supporting documentation, to the Corporate Authorities within fifteen (15) days of the date of such written notice of appeal. After receiving such written narrative, the Village President will review such materials relating to the claim or dispute and meet with the Contractor to discuss the merits of the claim or dispute. The Corporate Authorities will render a decision within thirty (30) days after receiving the written narrative of the claim or dispute and supporting documentation. The decision of the Corporate Authorities shall be final and binding unless determined by a court of competent jurisdiction that such decision of the Corporate Authorities is fraudulent, arbitrary, capricious, so grossly erroneous as to imply bad faith, or not supported by substantial evidence. Any failure of the Manager or the Corporate Authorities to make a decision within the time limit set forth above shall not result in the granting of the Contractor’s claim or dispute for relief. If the Contractor disagrees with the decision of the Corporate Authorities concerning Contractor’s claim or dispute, the Contractor shall proceed with the Work as indicated by the Corporate Authorities’ decision of the Corporate Authorities but shall thereafter have the right to seek such recourse as may otherwise be provided by law under Section 6.05 below.

**Section 6.05. Default, Costs, Expenses and Attorneys' Fees.** In the event of any default of the Contractor for any of the reasons provided under Section 6.01 above, or in the event of any default by the Village for failure to: (i) make due and punctual payment of any amount which is not otherwise subject to any claim or dispute and which is otherwise due and payable to the Contractor under the Contract Documents for Work actually performed thereunder, when and as the same becomes due and payable, and such default shall continue for a period of thirty (30) days after notice from the Contractor to the Village specifying any such itemized amount in default, or (ii) observe or perform any material obligation imposed upon the Village under the Contract Documents, other than that referred to in clause (i) immediately above, at any time from and after the exhaustion of the administrative remedies for disputes or claims of the Contractor as specified in Section 6.04 above, the party not so in default shall have the right, in addition to any other right specified in any of the Contract Documents, to any other lawful remedy as provided by law. Should it become necessary for either the Village or the Contractor to enforce any of the material obligations imposed upon or undertaken by the other under the Contract Documents, the party prevailing any such enforcement action shall be entitled to collect any and all reasonable costs and expenses of any such enforcement action, including reasonable attorneys' fees.

**Section 6.06. Failure to Enforce.** Failure by the Village at any time to enforce any of the provisions of the Contract Documents shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the Contract Documents or any part thereof or the right of the Village to enforce any such provision at any time in accordance with its terms.

## **VII.** **MISCELLANEOUS**

**Section 7.01. Independent Contractor.** Both the Village and the Contractor mutually covenant and agree that the relationship created by the Contract Documents shall be that of an independent contractor and that neither the Contractor nor any of its employees, agents or subcontractors shall, under any circumstances, be considered officers, employees or agents of the Village. The Village shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its officers, employees or agents.

**Section 7.02. Access to and Retention of Records.** The Contractor shall maintain such financial records and other records, including records in automated form, as may be prescribed by the Village, the Contract Documents or by any applicable federal, state or local laws, rules, and regulations. The Contractor shall retain such records for a period of three (3) years after final payment to the Contractor upon termination of the Contract Documents. Such records shall be made available for examination, transcription, and audit by the Village, its designees, or other authorized bodies during normal business hours after reasonable notice from the Village of its intention to examine any such records.

**Section 7.03. Assignment.** The Contractor shall not assign, transfer, convey or otherwise dispose of any award or any or all of its rights, title, or interest in or under any of the Contract Documents, without the prior written consent of the Village.

**Section 7.04. Written Modification.** No provision of any of the Contract Documents may be changed, revised, modified, waived, discharged, terminated or otherwise abrogated, diminished or impaired other than by an instrument in writing duly authorized and executed by both the Village

and the Contractor; provided, however, that any change, revision or modification to the Scope of Work to be performed by the Contractor in connection with the Contract Documents shall be as specified in Section 2.03 hereof, and that minor variations and deviations in the Scope of Work which do not require an adjustment to the Contract Amount may be authorized in writing by the Manager.

**Section 7.05. Severability.** The invalidity or unenforceability of any one or more phrases, sentences, clauses, sections or other divisions of the Contract Documents shall not affect the validity or enforceability of the remaining portions of the Contract Documents, or any part thereof.

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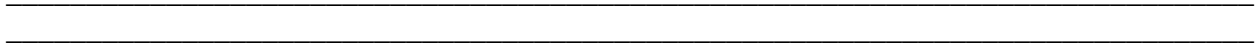
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