



HAMER ELECTRIC, INC.
MASTER SERVICES
AGREEMENT

I. RECITALS

A. HAMER ELECTRIC and the Subcontractor have agreed to enter into a relationship in which the Subcontractor will provide certain services for maintenance, repair, monitoring, construction, alteration, and/or renovation as specified in the Subcontracts (as defined in Section 1.1 below) that identify, among other matters, the services to be provided, delivery date and place, and the price. Unless otherwise specifically defined in the Contract Documents (as defined in Section 1.1(a) below), "services" includes without limitation, providing labor, supervision, repairs, and tools and machinery, and purchasing, providing, and installing goods and equipment, as called out in a Purchase Order.

B. The parties intend that (1) all Subcontracts issued by HAMER ELECTRIC and all services promised and provided by the Subcontractor be subject to the terms and conditions of this Agreement and (2) no contrary terms in any existing or subsequent document are to supersede, eliminate, or limit the terms of this Agreement, unless specifically consented to as an amendment to this Agreement.

THEREFORE, for value, HAMER ELECTRIC and the Subcontractor agree as follows:

II. TERMS AND CONDITIONS

ARTICLE I GOVERNING PROVISIONS

1.1 Scope; Governing Contract; Conflicts. The terms of this Agreement govern the relationship between HAMER ELECTRIC and Subcontractor, and all services provided by the Subcontractor for HAMER ELECTRIC under any document, order, or agreement. This Agreement is expressly incorporated as a material part of each purchase order, contract, proposal, authorization, invoice, order, or other agreement to authorize the Subcontractor's work issued by or agreed to by HAMER ELECTRIC (collectively, "Purchase Order") on or after the Effective Date of this Agreement, whether or not the Purchase Order refers to this Agreement.

(a) This Agreement will be implemented by HAMER ELECTRIC's issuance of a Purchase Order to the Subcontractor for specific services. The price, payment, quality, quantity, and delivery terms in this Agreement and any Purchase Order issued pursuant to this Agreement (collectively, the "Contract Documents") supersede all proposals, counterproposals, and negotiations.

(b) No additional or different terms in any other agreement, contract, Subcontractor proposal, order acknowledgment, invoice, or bid may supersede, modify, or limit any term in this Agreement or any Purchase Order unless expressly agreed to in writing by HAMER ELECTRIC's authorized representative as an amendment to this Agreement under Section 1.2.

1.2 Execution. If the Subcontractor begins performance under any Purchase Order, the Subcontractor is bound by the terms of this Agreement and the Purchase Order. A Purchase Order is binding on the Subcontractor without countersignature by the Subcontractor.

1.3 Authority to Modify Terms. This Agreement may be modified only in a writing signed by the parties.

ARTICLE II THE SUBCONTRACTOR

2.1 Licenses. Subcontractor must be currently and continuously licensed to perform the services under this Agreement as required in the jurisdiction where the project is located.

2.2 Subcontractor's Representatives. This Agreement applies to the Subcontractor, agents, affiliates, employees, suppliers, and any other person or entity for which the Subcontractor is responsible ("Affiliates") who participates in or contributes to the delivery of services covered by this Agreement. The Subcontractor will bind its Affiliates and assigns to all the terms and provisions of this Agreement and each applicable Purchase Order.

(a) The Subcontractor designates on page 1 of this Agreement an individual representative who is empowered to act for the Subcontractor in all matters relating to this Agreement and to specific Subcontracts (the "Subcontractor Representative").

(b) The Subcontractor is responsible to HAMER ELECTRIC for the acts and omissions of its Affiliates. The Subcontractor will properly supervise, coordinate, and direct their services.

2.3 The Prime Contract. Subcontractor acknowledges that HAMER ELECTRIC has entered into an agreement with either an owner or a general contractor for the project (the "Prime Contract"). The Subcontractor assumes toward HAMER ELECTRIC all obligations, rights, duties, and redress that HAMER ELECTRIC assumes under

the Prime Contract. HAMER ELECTRIC shall have the benefit of all rights, remedies, and redress against the Subcontractor as the owner or general contractor has against HAMER ELECTRIC. In the event of conflicts or inconsistencies between the provisions of this Agreement or the Prime Contract, this Agreement shall govern.

2.4 Compliance with Laws. The Subcontractor will comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities applicable to performance of the work, and all Contract Documents, including without limitation change orders and change directives.

2.5 Compliance with Policies. The Subcontractor will comply with all HAMER ELECTRIC policies and standards applicable to the project, including any policies specified in the Prime Contract.

2.6 Labor and Materials. Unless otherwise expressly provided in the Contract Documents, the Subcontractor shall provide and pay for all labor, materials, equipment, supervision, tools, utilities, machinery, transportation, and other facilities and services necessary for delivery of the goods to and performance of services at HAMER ELECTRIC's designated facility, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Subcontractor's services. All services must be performed in a skillful and workmanlike manner. The Subcontractor shall at all times enforce strict discipline and good order among its employees and may not employ any unfit person or anyone not skilled in the task assigned.

2.7 Errors and Inconsistencies. The Subcontractor will promptly inform HAMER ELECTRIC of any matter, including without limitation field measurements and conditions, that the Subcontractor believes to be an error or omission by HAMER ELECTRIC or would result in a material error or omission in any services of the Subcontractor.

2.8 Independent Subcontractor. The Subcontractor is an independent Subcontractor and is solely responsible for the means, methods, techniques, sequences, and procedures of any services performed.

2.9 Supervision and Construction Procedures. The Subcontractor shall supervise and direct the services using its best skill and attention. The Subcontractor is solely responsible for all means,

techniques, sequences and procedures, and for coordinating all portions of the services under the Contract Documents.

2.10 Cleaning. At all times, the Subcontractor shall keep the premises free from accumulation of waste material and rubbish caused by its operations.

2.11 Assurances. HAMER ELECTRIC may require assurance—adequate in HAMER ELECTRIC's reasonable judgment—of the Subcontractor's performance if the Subcontractor delays delivery, makes a nonconforming delivery of services, is in breach of any Purchase Order, or creates doubt as to the Subcontractor's performance.

ARTICLE III SAFETY

3.1 Safety. The Subcontractor is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the services. Subcontractor shall establish a safety program implementing safety measures, policies and standards conforming to those required or recommended by governmental and quasi-governmental authorities having jurisdiction and the requirements of this Agreement.

(a) The Subcontractor will notify HAMER ELECTRIC immediately when any person is injured in the course of the Subcontractor's services.

(b) The Subcontractor will erect and maintain reasonable and necessary safeguards for safety and protection of and from its services, including without limitation posting adequate visual or auditory warnings and notifications.

ARTICLE IV WARRANTIES AND CORRECTION OF WORK

4.1 Warranties. The Subcontractor warrants that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. The Subcontractor further warrants that the Subcontract Work shall be free from material defects not intrinsic in the design or materials required in the Subcontract Documents.

4.2 Correction. In addition to the Subcontractor's obligations under Section 4.1 and HAMER ELECTRIC's other remedies, if within one year after acceptance of the Subcontractor's services any

services are found to be nonconforming or defective, the Subcontractor will correct them promptly after notice from HAMER ELECTRIC to do so. If the Subcontractor fails to correct nonconforming or defective services within ten (10) days after receiving notice, HAMER ELECTRIC may, among its other remedies, correct the condition and seek reimbursement or damages from the Subcontractor.

ARTICLE V TIME AND SCHEDULE

5.1 Time of Essence. Time is of the essence in the performance of services and contractual duties under this Agreement and Subcontracts.

5.2 Schedule. If required by HAMER ELECTRIC, the Subcontractor shall prepare a schedule for the performance of Subcontractor's services and shall revise and update the schedule as the project progresses. HAMER ELECTRIC shall have the right to determine, if necessary, the order and priority of services in order to meet any milestones established by the Prime Contract.

ARTICLE VI PRICE AND PAYMENT

6.1 General. The price of the services supplied by the Subcontractor to HAMER ELECTRIC will be set by mutual agreement in the Purchase Order for those services. Unless specifically stated otherwise in a Purchase Order, the price includes all costs, expenses, taxes, temporary utilities, tools, and equipment required to perform the services within the time specified for completion of performance. The price may not be increased without HAMER ELECTRIC's prior written consent.

6.2 Billing Statements. HAMER ELECTRIC will make payment to the Subcontractor only after receipt from the Subcontractor of a correct, certified billing statement identifying

- (a) the Purchase Order number,
- (b) the HAMER ELECTRIC property or properties where services were performed, and
- (c) the dates and details of the services performed, in addition to any other information that may be required by HAMER ELECTRIC. The Subcontractor will, upon HAMER ELECTRIC's request, obtain and deliver unconditional releases and waivers of lien and bond claims from the Subcontractor and those for whom the Subcontractor is responsible, covering everything for which the Subcontractor has been paid, and binding conditional waivers

for services for which payment is requested in the billing statement.

(d) For Subcontracts contemplated to be completed within 60 days from commencement of services, the Subcontractor will submit one billing statement following HAMER ELECTRIC's acceptance of the services.

(e) For all other Subcontracts, the Subcontractor may submit certified billing statements for progress payments based on work performed during the preceding 30 calendar days.

(f) Billing statements will not be considered for payment if submitted more than 90 calendar days following performance of the Subcontractor's services.

6.3 Payments Withheld. HAMER ELECTRIC may reject a Subcontractor billing statement or nullify a previously approved Subcontractor billing statement, in whole or in part, because of: (a) Subcontractor's failure to timely perform the services, (b) Subcontractor's failure to properly pay its subcontractors or suppliers, (c) Subcontractor's failure to promptly correct rejected, defective, or nonconforming services, or (d) third-party claims involving the Subcontractor or reasonable evidence demonstrating that third-party claims are likely to be filed.

6.4 Payment. HAMER ELECTRIC's receipt of payment under the Prime Contract is a condition precedent to payment to Subcontractor. The Subcontractor expressly assumes the risk of the owner's or general contractor's nonpayment. If paid under the Prime Contract, HAMER ELECTRIC will pay the approved portion of a progress payment within 14 calendar days from receipt of payment by general contractor or owner to HAMER ELECTRIC.

6.5 Retainage. HAMER ELECTRIC may, but is not required to, retain up to five percent of amounts due for billing.

6.6 Interest. Any amount not paid within 30 days after becoming due and payable will bear interest at the rate of four percent per annum.

ARTICLE VII SUBCONTRACTOR INDEMNITIES

7.1 Indemnity. To the fullest extent permitted by law and in addition to any obligations of indemnity otherwise existing, the Subcontractor will indemnify and defend HAMER ELECTRIC against and hold it harmless from all claims, damages, losses and

expenses (including without limitation attorney and expert fees) to the extent that they result from or are due to the negligence or fault of the Subcontractor, its Affiliates, or those for whom they are responsible.

7.2 Limitation. Nothing in this Agreement requires the Subcontractor to indemnify HAMER ELECTRIC or its agents, representatives, or employees for, from and against liability for death or bodily injury to persons or damage to property caused in whole or part by their negligence, but this Article does require indemnity to the extent of the fault of the Subcontractor or its Affiliates.

ARTICLE VIII INSURANCE AND BONDS

8.2 Subcontractor's Insurance. The Subcontractor will provide, pay for, and maintain in full force and effect at all times for the duration of this Agreement insurance that affords at least the minimum coverages set forth below or as provided in the Prime Contract, whichever provides the maximum coverage.

(a) Workers' Compensation. Workers' compensation sufficient to meet statutory liability limits.

(b) Employer's Liability Insurance. Employer's liability insurance with minimum limits of \$1,000,000.

(c) Commercial General Liability. Commercial general liability ("CGL") and, if necessary, commercial excess or umbrella insurance in the following minimum amounts:

Combined single limit (per occurrence):	\$1,000,000
Aggregate (per project):	\$2,000,000
Products/completed operations aggregate (per project):	\$1,000,000

(d) Commercial Umbrella/Excess Coverage. If required by this Agreement or a Purchase Order, the Subcontractor shall purchase or maintain a commercial umbrella or excess liability insurance.

(e) Comprehensive Automobile Liability. Automobile liability insurance covering any auto

(including owned, hired, and non-owned autos) with minimum limits of \$1,000,000.

8.3 Insurance Terms and Requirements. The Subcontractor's liability insurance policies (a) must be primary coverage and may not seek contribution from any insurance or self-insurance carried by HAMER ELECTRIC; (b) must apply separately to each insured against whom a claim is made or suit is brought, except to the limits of the insurer's liability; (c) must be written on an occurrence basis; and (d) must be maintained without interruption from the Effective Date of this Agreement until the date of termination of any coverage required to be maintained after termination or cancellation.

8.4 Additional Insured. The Subcontractor must include HAMER ELECTRIC as additional insureds on the Subcontractor's CGL and automobile policies. The additional-insured endorsement for CGL insurance must be written on ISO Form CG 20 10 (10 01) and CG 20 37 (10 01), or their equivalent, but shall not use either of the following forms: CG 20 10 (10 93) or CG 20 10 (03 94).

8.5 Material Breach. If the Subcontractor, for any reason, fails to maintain required insurance coverage, the failure will be deemed a material breach of this Agreement and HAMER ELECTRIC, at its sole discretion, may suspend or terminate this Agreement pursuant to Article X.

8.6 Certificates of Insurance. The Subcontractor shall supply to HAMER ELECTRIC certificates of insurance meeting the insurance requirements. HAMER ELECTRIC's acceptance of certificates does not constitute approval of them or acknowledgment that the requirements of this Agreement have been fulfilled.

8.7 Notice. The Subcontractor shall notify HAMER ELECTRIC in writing at least 30 days prior to any cancellation, lapse, or expiration of any insurance required.

8.8 Sufficiency of Insurance. By requiring insurance, HAMER ELECTRIC does not represent that coverage and limits will necessarily be adequate to protect the Subcontractor. Insurance in effect or procured by the Subcontractor will not reduce or limit the Subcontractor's contractual obligations to indemnify and defend HAMER ELECTRIC for claims or suits that result from or are connected with the performance of this Agreement.

8.9 Bonding. HAMER ELECTRIC may require either performance or payment bonds. Such bonds shall be issued by a surety admitted in the state in which the project is located and must be acceptable to HAMER ELECTRIC.

ARTICLE IX CHANGES TO SERVICES

9.1 Change Orders. When HAMER ELECTRIC orders in writing, Subcontractor, without nullifying this Agreement, shall make any and all changes in the services. Any adjustment in the price or time of performance shall be authorized by a Change Order. No adjustments shall be made for any changes performed by Subcontractor that have not been ordered by HAMER ELECTRIC. A Change Order is a written instrument prepared by HAMER ELECTRIC and signed by Subcontractor stating their agreement upon the change in the services.

ARTICLE X TERMINATION AND SUSPENSION

10.1 Termination for Convenience. HAMER ELECTRIC may terminate this Agreement as to all or any part of services not performed after giving seven (7) business days written notice to Subcontractor. HAMER ELECTRIC will be responsible only for payment of the price of conforming services actually rendered before receipt of the notice of termination. In no event will the aggregate of any damages for termination exceed the price stated in the Purchase Order.

10.2 Prime Contract Termination. Should the owner or general contractor terminate or suspend the Prime Contract, or any part which includes the Subcontractor's services, HAMER ELECTRIC may terminate this Agreement with three (3) business days' written notice to the Subcontractor. Upon receipt of notice, the Subcontractor shall immediately stop services, follow all of HAMER ELECTRIC's instructions, and mitigate all costs. In the event of such termination, HAMER ELECTRIC's liability to Subcontractor shall be limited to the extent of HAMER ELECTRIC's recovery under the Prime Contract.

10.3 Subcontractor's Failure to Perform. If the Subcontractor fails to satisfy contractual deficiencies or to commence and continue satisfactory correction of the default with diligence or promptness within three (3) business days from receipt of HAMER ELECTRIC's written notice, then HAMER ELECTRIC, without prejudice to any right or remedies, may (a) terminate this Agreement with seven (7) days' written notice or (a) have the right to take whatever steps it deems necessary to correct deficiencies and charge the cost thereof to

Subcontractor, who shall be liable for such payment, including reasonable overhead, profit and attorneys' fees. In the event of an emergency affecting safety of persons or property, HAMER ELECTRIC may proceed as above without notice, but HAMER ELECTRIC shall give the Subcontractor notice promptly after the fact as a precondition of cost recovery.

ARTICLE XI DISPUTE RESOLUTION

11.1 Mediation. Disputes between HAMER ELECTRIC and the Subcontractor not resolved by discussions between the parties, shall be submitted to mediation. The parties shall select the mediator within fifteen (15) days of the request for mediation. Engaging in mediation is a condition precedent to any form of binding dispute resolution.

11.2 Multi-Party Proceedings. Subcontractor agrees that all parties necessary to resolve a claim shall be parties to the same dispute resolution proceedings. To the extent that disputes between HAMER ELECTRIC and the Subcontractor involve in whole, or in part, disputes between HAMER ELECTRIC and owner or general contractor under the Prime Contract, the dispute between HAMER ELECTRIC and the Subcontractor shall be decided by the same dispute resolution proceedings as set forth in the Prime Contract.

11.3 Binding Dispute Resolution Proceedings. Disputes not resolved by mediation as set forth in Section 11.1, the parties shall submit the matter to litigation in either the state or the federal court having jurisdiction over the matter.

11.4 Venue. Exclusive venue shall be the location of the project, unless the parties agree on a mutually convenient location.

11.5 Applicable Law. This Agreement is governed by the substantive laws of the jurisdiction where the project is located without regard to conflict-of-laws principles.

11.6 Attorney Fees. The costs of any binding dispute resolution procedures, including expert and attorneys' fees, shall be borne by the non-prevailing party.

11.7 Continued Services. Unless otherwise agreed in writing, the Subcontractor shall continue with the services under this Agreement during any dispute resolution proceedings.

11.8 Limited Waiver of Consequential Damages.

Except for any liquidated, consequential, or other damages that the owner or general contractor is entitled to recover against HAMER ELECTRIC under the Prime Contract, HAMER ELECTRIC and the Subcontractor mutually waive all claims against each other for consequential damages. Similarly, the Subcontractor shall obtain in another agreement from its subcontractors mutual waivers of consequential damages that correspond to the Subcontractor's waiver of consequential damages herein. The provisions of this section shall also apply to and survive termination of this Agreement.

ARTICLE XII
MISC. PROVISIONS

12.1 Assignments. This Agreement binds and inures to the benefit of the respective successors and assigns of the parties, but the Subcontractor may not assign its rights or delegate its duties under this Agreement or under any Purchase Order without HAMER ELECTRIC's prior written consent.

12.2 Notice. Any communication to a party is effective only when delivered to the representative personally, by mail, or by fax. If mailed or faxed, the communication must be to the address or fax number stated for the representative.

12.3 Non-waiver. No action or failure to act by a party will be deemed a waiver of any right or remedy or grounds for the claim of estoppel. Any waiver must be specific and in writing. No inspection performed, or not performed, by any public agency will constitute waiver of the Subcontractor's warranty or performance obligations under the Agreement or any Purchase Order.