



A MEMBER OF THE  TSUBAKI GROUP

Subcontractor General Conditions

SECTION 1: STATEMENT OF WORK AND RESPONSIBILITIES

1. Subcontractor shall perform and furnish all the supervision, work, labor, services, materials, equipment, scaffolds, appliances, tools, inspections, tests, insurance, and other incidentals or related items necessary to properly perform its work specified in the Purchase Order, in a workmanlike manner and in strict conformity with the Contract Documents (the "Work").
2. The Subcontractor shall return to the Contractor all Project plans, drawings and details upon completion of the Work, which shall include an accurate record of "as built" conditions recording any variations with particular reference to the Work which will be subsequently concealed. Subcontractor must refer any questions respecting the specifications, plans, drawings, and details about which it is in doubt, or which seem to admit of a dual interpretation, to Contractor for its decision, by which Subcontractor must abide, otherwise Subcontractor assumes the risk of such work.
3. The Purchase Order incorporates these Subcontractor General Conditions and all Contract Documents as defined in the Purchase Order. The Purchase Order represents the entire Agreement between the parties and supersedes any prior negotiations, representations or agreements, whether written or oral, with the exception of any Confidentiality and/or Nondisclosure Agreements between the parties, the terms of which shall continue to survive. Clarifications or deviations from the specifications must be approved in writing and made a part of the Purchase Order.
4. Copies of the Plans, Specifications, General Conditions, Special Conditions, and other Contract Documents are available for examination by the Subcontractor at all reasonable times at the office of Contractor. The Subcontractor represents and agrees that it has carefully examined and understands the Contract Documents, has investigated the nature, locality and site of the Work and the conditions and difficulties under which it is to be performed, and that it enters into the Purchase Order on the basis of its own examination, investigation and evaluation of all such matters, and not in reliance upon any opinions or representations of Contractor, or of the Owner, or any of their respective officers, agents, servants, or employees.
5. With respect to the Work to be performed and furnished by the Subcontractor hereunder, the Subcontractor agrees to be bound to Contractor by each and all of the terms and provisions of the Contractor's Contract with its Customer and/or the Owner and the other Contract Documents. Contractor's contract with its Customer and/or Owner is expressly incorporated into the Purchase Order as though fully set forth herein. Subcontractor assumes toward Contractor all of the duties, and/or obligations and responsibilities that Contractor by those Contract Documents assumes toward its Customer and/or the Owner, and the Subcontractor agrees further that Contractor shall have the same rights and remedies as against Subcontractor as Contractor's Customer and/or the Owner under the terms and provisions of the Contract Documents has against Contractor with the same force and effect as though every such duty, obligation, responsibility, right or remedy were set forth herein in full. The terms and provisions of the Purchase Order with respect to the Work to be performed and furnished by the Subcontractor hereunder are intended to be and shall be in addition to and not in substitution for any of the terms and provisions of the Contract Documents.
6. In any Sub-subcontract which Subcontractor enters into in connection with the Work, the Sub-subcontract must incorporate all the terms of the Purchase Order, including the flow-down provision in the preceding paragraph, and all indemnity provisions herein. Any such Sub-subcontract requires the prior approval of Contractor, in its full discretion, prior to entering into such Sub-subcontract.
7. The Subcontractor shall cooperate with the Contractor in scheduling and performing the Subcontractor's Work, and Subcontractor shall be responsible to avoid conflict, delay in or interference with the Work of the Contractor, or the Owner's own forces.
8. The Subcontractor shall promptly submit drawings, product data, samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Contractor or other Subcontractors and in conformance with the Project schedule.
9. Subcontractor shall furnish, without extra charge, all work and materials not specifically mentioned or referred to in the Contract Documents, but which may be reasonably inferred from the Contract Documents or which are reasonably necessary for the proper execution and completion of the Work and, also, all work or materials of the kind herein contracted for must conform to all laws and the rules and regulations of all authorities having jurisdiction over this type of Work including permits and all applicable licenses.
10. The Subcontractor shall furnish to the Contractor daily progress reports on the Work of the Subcontractor as required by the Contractor and/or the Owner.
11. Subcontractor shall attend weekly (or as required or deemed necessary) design meetings with the Contractor and/or the Owner at no extra cost, including that there shall be no reimbursement for travel costs for such meetings.
12. The Drawings and Specifications as described herein are intended to be complementary and all-inclusive for the complete Project as related to each trade or subdivision of the Work. All items of Work described by either the Drawings or Specifications shall be construed as if called for by both. The described Work shall be complete in every detail, although every item may not be particularly mentioned or shown. Details, sections and Work shown on the Drawings in part only shall continue throughout unless distinctly marked otherwise. Should any error or inconsistency appear in the Drawings or Specifications, the Subcontractor shall not proceed with the Work in uncertainty, but shall consult with the Contractor and/or Owner regarding revisions to the Drawings and/or Specifications; otherwise Subcontractor assumes all risk for such work.

Drawings, as required by the Specifications, shall be submitted by the Subcontractor to the Contractor in a form and number as required by the Owner. All Drawings shall be submitted in ample time to prevent delays or material deliveries. Drawings shall be submitted in the order in which the materials are needed without necessarily waiting for completion of all Drawings before submitting part of them for approval.

Drawings found to be inaccurate or otherwise in error shall be corrected by the Subcontractor responsible for the Work.

No changes shall be made on approved drawings without the written consent of the Contractor and/or Owner. The Contractor and/or Owner's approval of drawings and manufacturer's Drawings and Specifications is for general arrangement only, unless otherwise noted, and does not relieve the Subcontractor from full responsibility for the proper and correct execution of his Work. Where errors and omissions are discovered later, they must be made good by the Subcontractor irrespective of any prior approvals of the Contractor and/or Owner.

SECTION 2: DEFINITIONS

1. Terms defined in the Purchase Order, if any, shall be given the same meaning in these Subcontractor General Conditions, and vice versa.
2. "Contract Documents" shall be given the meaning as defined in the Purchase Order. In the event of any conflict or inconsistency in the provisions of any of the Contract Documents, those provisions shall be interpreted and enforced to provide Contractor with the greater quantity, higher quality or best performance referenced in such conflicting or inconsistent provisions, from Subcontractor.
3. "Contractor" shall be KCI, Inc.
4. "Customer" shall mean the entity which has hired Contractor to perform Work in connection with the Project and shall be construed to mean each entity in every contractual tier above Contractor, up to and including the Owner.
5. "Owner" means the entity defined as such in the Contract Documents, or its authorized representative.
6. "Project" means the project identified in the Purchase Order and the Contract Documents.
7. "Work" means the "Scope of Work" to be performed by the Subcontractor on the Project as identified in the Purchase Order.
8. "Subcontractor" shall be the entity executing the Subcontractor General Conditions or the entity performing the Scope of Work as identified in the Purchase Order.
9. "Sub-subcontractor" shall be any entity contracted by Subcontractor to perform, or furnish supplies or material in connection with, any portion of the Subcontractor's Work.

SECTION 3: STATEMENT OF QUALIFICATION

1. The Subcontractor states that it is qualified and is well experienced to perform the type of Work described herein. The Subcontractor has reviewed all of the applicable drawings and specifications, has visited the job site, and has become thoroughly familiar with all of the necessary information to fully perform the specified and intended Scope of Work.
2. Although each and every item may not be mentioned in the drawings and specifications, it is expected that such items will be included to provide a complete system which is free from defects in material and workmanship, fit and sufficient for the purpose intended in strict compliance with the specifications and other Contract Documents. The Work of the Subcontractor shall be in compliance with any and all applicable industry codes or standard practices, including plumbing and electrical, to the extent applicable. In addition, all Work performed by the Subcontractor shall be consistent with applicable government regulations and laws.
3. Contractor reserves the right to approve or reject Subcontractor personnel.

SECTION 4: PURCHASE ORDER COMPENSATION

1. The price to be paid by Contractor and accepted by Subcontractor for the satisfactory and timely performance and completion of the Work, is set forth in the Purchase Order, subject to all conditions provided herein including any additions and deductions.
2. Subcontractor shall comply with all laws relating to taxes, wages, hours, fringe benefits, and equal employment opportunity requirements. Subcontractor agrees, when required by law, to make payments to Subcontractor's employees or their dependents and to defend, indemnify, and save Contractor, its Customer and Owner harmless from all liability for such payments.
3. Subcontractor agrees to pay all local, state and federal taxes, including but not limited to sales and use taxes and similar levies on all materials, tools, and equipment furnished under the Purchase Order and to assume all risk and liability for loss and damage, however caused, to Subcontractor's material, tools and equipment not incorporated in the Work.
4. The compensation stated herein to be paid to Subcontractor is inclusive of all taxes imposed by all laws whether or not stated and charged separately, including, but not limited to sales tax, use taxes and personal property taxes levied and assessed against the Owner, Contractor and Subcontractor arising out of the furnishing of labor and services in connection with the Work done by Subcontractor and its Sub-subcontractors. Where the law requires taxes to be stated and charged separately, the total of all items included within the Work and the added tax shall not exceed the Subcontract Price as set forth in the Purchase Order.
5. The Subcontractor, in making and ordering shipments, shall not consign nor have materials consigned in the name of Contractor, Customer or Owner. Contractor shall not be responsible to make payments for charges on shipments made by and to the Subcontractor, except at its option, in which case the Subcontractor shall reimburse Contractor for such expense.

SECTION 5: PROGRESS PAYMENTS

1. The Purchase Order expressly incorporates Contractor's contract with its Customer and the other Contract Documents, including the contract with the Owner. Subcontractor acknowledges that it has considered the solvency of the Customer and the Customer's ability to perform the terms of the Contract with the Contractor, before entering the Purchase Order. Subcontractor acknowledges that it relies on the credit and ability to pay of the Customer, and not Contractor, for payment for the Work performed hereunder. Subcontractor is entering into the Purchase Order intending to assume the risk of non-payment by the Customer due to insolvency or other inability or failure to pay. The Subcontractor hereby agrees that as a condition precedent to Contractor's obligation to make any payment to the Subcontractor under the Purchase Order, Contractor must receive payment therefor from its Customer. In the event that Contractor does not receive all or any part of the payments from the Customer in respect to the Work provided by the Subcontractor pursuant to the Purchase Order, whether because of a claimed defect or deficiency in the Work, or for any other reason, Contractor shall not be liable to the Subcontractor for any such sums in relation thereto. Unless otherwise provided in the Contract Documents, Contractor shall pay the Subcontractor each progress payment and the final payment under the Purchase Order no later than (10) working days after he receives payment from the Customer, less any withholding as provided for herein. The amount of each progress payment to the Subcontractor shall be the amount indicated on the application for payment as approved by Contractor which shall reflect the percentage of completion applied to the Subcontract Price, which represents the value of Work completed, less the indicated retainer.
2. The period covered by each application for payment shall be one (1) calendar month ending on the last day of the month.
3. Provided an application for payment is received by the Contractor not later than the twentieth (20th) day of a month, the Contractor shall include the Subcontractor's Work covered by that application in the next application for payment which the Contractor is entitled to submit to the Owner.
4. If an application for payment is received by the Contractor after the twentieth (20th) of a month, the Subcontractor will not be paid and the Subcontractor's Work covered by the untimely application shall be included by the Contractor in the next application for payment submitted to the Owner.
5. Each application for payment shall be based upon the most recent schedule of values submitted by the Subcontractor in accordance with the Contract Documents. The schedule of values must be approved by Contractor. The schedule of values shall allocate the entire Purchase Order sum among the various portions of the Subcontractor's Work and be prepared in such form and supported by such data to substantiate its accuracy as the Contractor and/or Owner may require. This schedule, unless objected to by the Contractor, shall be used as basis for reviewing the Subcontractor's application for payment.
6. Applications for payment submitted by the Subcontractor shall indicate the percentage of completion of each line item in the approved schedule of values and of each portion of the Subcontractor's Work as of the end of the period covered by the application for payment.
7. All payments made by Contractor to Subcontractor are made to, and accepted by Subcontractor as trustee for the benefit of Subcontractor's employees, material suppliers, and lower-tier subcontractors. All payments received by Subcontractor which include payments for the benefit of employees, material suppliers or lower-tier subcontractors shall first be used to satisfy or secure the indebtedness owed by the Subcontractor to a person furnishing labor or materials for use in performing or incorporation into Subcontractor's Work as specified herein. The Contractor shall have the right, but not the obligation, to contact Subcontractor's material suppliers or lower-tier subcontractors to ensure that the same are being paid by the Subcontractor for the labor or material furnished for use in performing the Subcontractor's Work. Subcontractor shall also ensure that all of its employees, employee benefits, union or labor obligations, withholding taxes and other applicable taxes are timely paid.
8. Contractor may withhold payment to the Subcontractor from any application for payment, on account of (1) failure of the Subcontractor to comply fully with any requirements of the Purchase Order, including the failure of the Subcontractor to make payments to Sub-subcontractors and suppliers for material or labor, (2) the failure of the Subcontractor to prevent the filing of liens or claims against the Owner, the Project, or the Contractor (3) failure to provide daily progress reports of the Work performed by Subcontractor and (4) damage, including reasonable attorney's fees, to Contractor, its Customer, Owner, another subcontractor, or any person by reason of acts or failure to act of the Subcontractor.
9. With each application for payment, Subcontractor must supply the required sworn statements and appropriate waivers of lien in a form necessary to satisfy applicable lien law, and satisfactory to the Contractor and/or Owner.
10. No partial or entire occupancy of the Project by Owner nor any statement given or payment made shall be evidence of the performance of this Subcontract either wholly or in part, and no payment shall be construed to be an acceptance of defective Work or improper materials.
11. All operation and maintenance manuals, close-out documents, spare parts lists, written guarantees and as built drawings shall be delivered complete and in the proper format prior to submission of an application for final payment. Upon submittal of the application for final payment, Subcontractor shall furnish an affidavit (in addition to final lien waivers and sworn statement required by the applicable lien act and/or the Owner) that all payrolls, bills for materials and equipment, and other indebtedness connected with Subcontractor's Work have been paid or otherwise satisfied with all back-up as required by Contractor.
12. To the extent allowed by law, the Subcontractor, its Sub-subcontractors, its suppliers, and all persons acting for, thru, and under them, covenants that no mechanics liens and claims be filed and maintained by them, against the Work, building and site appurtenant thereto and part thereof, for or on account of work, labor done and materials furnished by them, under the Purchase Order, in connection with the Work; and the Subcontractor itself and its subcontractors and all persons acting for, through and under them, hereby expressly waive and relinquish all liens and encumbrances of every kind and nature against the Work, building and site appurtenant thereto and part thereof, and agree that this agreement of waiver shall be an independent covenant and shall operate and be effective as well with respect to Work and labor done and materials furnished under any supplement, alteration and addition to the Purchase Order and for extra and additional Work, although not herein or therein referred to, as to work and labor done and materials furnished under the Purchase Order. Contractor, at its option, may require the Subcontractor to furnish satisfactory bond to indemnify Contractor, its Customer, and/or Owner against any liens and encumbrances attempted in violation of this Section.
13. Contractor, at its option, may retain from monies owing by it to Subcontractor sufficient sums to indemnify it against losses, liabilities, and obligations for which the Subcontractor is liable under the Purchase Order, including Contractor's reasonable attorney's fees.

14. Contractor may disburse from monies owing by it to Subcontractor such sums directly to such other parties as it may determine to be necessary to pay for materials, equipment, labor and supplies used, ordered and delivered for incorporation into Work to be performed by Subcontractor.
15. Subcontractor shall furnish bond or securities sufficient to protect Contractor and Owner against the filing of any lien or encumbrance against the property of Owner, by any of its Sub-subcontractors or suppliers.

SECTION 6: TIME OF COMPLETION

1. Subcontractor shall be bound by Contractor's schedule, and shall adhere to such schedule. Subcontractor shall complete the Work to the satisfaction of Contractor and Owner, within the scheduled number of working days after the date Subcontractor begins, or is instructed to begin, the work, whichever is earlier. Time is of the essence of this Subcontract. Subcontractor shall schedule its work so that it is properly coordinated with Contractor's schedule and other phases of the Project. No additional monies will be paid Subcontractor for completion of the Work ahead of schedule, nor for overtime or premium time to maintain the schedule due to fault or failure on behalf of Subcontractor
2. The Subcontractor shall submit to the Contractor for approval, a detailed incremental progress schedule with manpower requirements for work included in the Subcontract. This schedule shall reflect the dates in the Contract Documents and include all construction activities such as detailing, shop fabrication, delivery of purchase items, field activity duration, etc., and shall be sufficiently detailed to enable the Contractor and/or Owner, at all times throughout the duration of the Work, to compare actual with scheduled progress. This schedule, when approved by the Contractor and/or Owner, shall be the Subcontractor's approved schedule.
3. The Contractor and/or Owner reserve the right to issue a written modification of the sequence of Work set forth in the Subcontractor's approved schedule.
4. In the event that the Subcontractor fails to provide the incremental progress schedule within the time period agreed between the Subcontractor and the Contractor, the Contractor may at its option, but is not obligated to, establish and prepare said schedule at the expense of the Subcontractor. This schedule, when forwarded to the Subcontractor, shall be the approved schedule. Regardless, Subcontractor must adhere to and comply with the requirements contained in the Contractor's own schedule.
5. If the Subcontractor fails to maintain the approved schedule, or if the progress or performance of the work or procedure(s) employed in the Work is such that, in the opinion of the Contractor and/or the Owner, the Work will not be completed within the time or times stated in the Contract Documents, the Subcontractor shall, at its own expense, work overtime, premium time, additional shifts, Saturdays, Sundays and/or holidays and/or hire additional employees, and revise or implement its construction procedures as may be necessary to restore adherence to the approved schedule. The Subcontractor will be responsible for the handling of any jurisdictional disputes or work stoppage which may arise during performance of the Work and shall promptly utilize available remedies to effect resumption of the Work.
6. Should the Subcontractor contend that it is entitled to an extension of time for completion of any portion of the Work, the Subcontractor shall, within the timeframe set forth in the Contract Documents, or within forty-eight (48) hours of the occurrence of a delay, whichever is earlier, notify the Contractor in writing setting forth the cause of the delay, a description of the portions of the Work affected by the delay, and all other pertinent details. Within one (1) week after cause for the delay has ceased to exist, or in the time set forth in the Contract Documents, whichever is earlier, the Subcontractor shall submit written application to the Contractor for the specific extension of time requested. The Purchase Order time shall not be extended unless Contractor receives a corresponding extension of time from the Customer/Owner.
7. The sole and exclusive remedy available to the Subcontractor for delay, or other schedule impact, shall be an extension of time. The Subcontractor agrees that, whether or not any delay shall be the basis for an extension of time, Subcontractor shall have no claim against the Contractor and/or Owner for an increase in the Purchase Order price, a payment or allowance of any kind for any damage, loss or expense resulting from delays, interruptions to, or suspensions of, its Work. Subcontractor furthermore hereby waives all consequential damages against Contractor of any kind and for any reason, including any claims for home office overhead, lost profits, and/or lost business opportunities.
8. If Subcontractor, in the opinion of Contractor, delays the progress of the Work, then, if requested by Contractor, Subcontractor shall, at its sole expense, perform such overtime work as may be necessary to finish said Work within the specified time. Contractor's decision governing the necessity of said overtime shall be final.
9. If, in the judgment of Contractor, it becomes necessary at any time to accelerate the Work at any particular location, then the Subcontractor shall, as directed by Contractor cease work where Subcontractor is engaged, transfer his equipment and work force to other locations and execute such portions of his Work as may be required to enable others to expedite their work. No additional payment shall be made by Contractor to the Subcontractor for this or any other type of acceleration of the Work.

SECTION 7: DEFAULT

1. Should the Subcontractor, in the opinion of the Contractor, at any time during the performance of the Work: neglect or refuse to supply a sufficiency of properly skilled workmen or of materials of proper quality, fail in any respect to prosecute the Work with promptness, diligence, and good workmanship, fail to perform any of the conditions of the Purchase Order, become insolvent, file a voluntary petition of bankruptcy or be subject to an involuntary petition of bankruptcy; then the Contractor may, after giving forty-eight (48) hours written notice to the Subcontractor (a) provide any necessary labor, materials or equipment required to assist the Contractor in the completion of the Work and deduct the cost thereof from any monies due or thereafter due the Subcontractor under the Purchase Order; or (b) in the alternative, for the purpose of completing the Work under the Purchase Order, the Contractor shall be at liberty to terminate the employment of the Subcontractor for the Work and/or enter upon the premises and take possession of all materials, tools, and equipment; and/or to employ any other person or persons necessary to finish the Work on a fixed sum contract basis, cost-plus fee, or a time-and-material basis, or a combination thereof. In case of discontinuance of the employment of the Subcontractor, the Subcontractor shall not be entitled to receive any further payment under the Subcontract until the Work is finished. If the unpaid balance of the amount to be paid under the Purchase Order shall exceed the cost and expense incurred by the Contractor in finishing the Work, including Contractor's 10% mark-up, Contractor's reasonable attorney's fees, and any liquidated damages or other damages imposed by the Customer/Owner, the excess shall be paid by the Contractor to the Subcontractor. If the cost and expenses, including Contractor's 10% mark-up,

Contractor's reasonable attorney's fees, and any liquidated or other damages imposed by the Customer/Owner shall exceed the unpaid balance of the Subcontract, the Subcontractor shall pay the difference to the Contractor.

SECTION 8: RECORDS AND AUDIT

1. Subcontractor agrees to keep records and books of account showing the actual cost to it of all items of labor, materials, equipment and supplies, services and other expenditures of whatever nature for which payment to it is authorized under the provisions of the Purchase Order.
2. Contractor shall, at all times, have access to all Subcontractor's books records, correspondence, instruction, receipts, facilities and memoranda of every description in connection with the Work.

SECTION 9: ALTERATIONS AND CHANGES IN THE WORK

1. Contractor, at any time, may order additions, omissions or alterations to or in the Work, material, or equipment, but no such changes shall be made except by a written order signed by Contractor. The value of the work added or omitted shall be agreed upon by the Subcontractor and Contractor, and the amount thereof added to or deducted from the Purchase Order price as the case may be. Subcontractor, upon written notice from Contractor, shall immediately proceed and continue with the change during the determination of the amount to be added or deducted. Any additional work performed by Subcontractor without written authorization by Contractor will be considered part of the original scope of the Work and invoices relative to this work will not be honored.
2. Any changes, omissions or extra work shall be subject to all provisions of the Contract Documents and to the same extent as the Work contracted for and no changes, omissions or extra work shall annul or invalidate the Purchase Order.

SECTION 10: PROCEDURE FOR AN ALLEGED CHANGE IN COST

1. Notwithstanding anything to the contrary herein, the Subcontractor shall make all claims promptly to Contractor in accordance with the Contract Documents. Any such claim which will affect or become part of a claim which Contractor is required to make under the Contract Documents within a specified time period or in a specified manner shall be made in sufficient time and manner to permit Contractor to satisfy the requirements of the Contract Documents. Such claims shall be received by Contractor not less than two (2) working days preceding the time by which Contractor's claim must be made. Failure of the Subcontractor to make such timely claim shall bind the Subcontractor to the same consequences as those to which Contractor is bound. The Purchase Order Price shall not be adjusted unless Contractor receives a corresponding adjustment in its Contract with its Customer.
2. Contractor reserves the right to adjust the Purchase Order Price in the event of a change in plans which eliminates any portion of the scope of Subcontractor's Work.
3. Should the Subcontractor perform any work or should it proceed in any manner which it may subsequently allege has caused it an increased cost, damage or loss, purporting in each case to have acted upon verbal instruction or with tacit consent or acceptance or approval other than written from the Contractor's Project Manager, the Subcontractor shall be held to have done so as its own peril and the Subcontractor shall have no claim against the Contractor or Owner on account of the alleged increased cost, damage or loss.
4. The Subcontractor's Superintendent or qualified Project Manager shall represent the Subcontractor on the site of the Work and all directions given to this person shall be as binding as if given to the Subcontractor.
5. If the Subcontractor shall contend during the performance of the Work that the Subcontractor is entitled to payment from the Contractor for increase in the cost of the Work, damage or loss because of any action or omission of the Contractor, or others engaged by the Contractor; the Subcontractor shall not delay its work on account thereof and shall, within seven (7) days after the first observance of the occurrence, (unless earlier notice is required by the other Contract Documents), notify the Contractor's Project Manager, in writing, of the amount of its claim and all details in connection with its contention.
6. It is a condition precedent to the consideration or prosecution of claims by the Subcontractor that the foregoing provisions be strictly observed in each instance, and if the Subcontractor fails to comply, the Subcontractor shall be deemed to have waived the claim. Neither the provisions of this Section nor the acknowledgment of the receipt of any claim by the Contractor shall constitute admission on the part of the Contractor that any claim is valid.

SECTION 11: WORKMANSHIP, INSPECTION, SAFETY AND SITE MAINTENANCE

1. Subcontractor shall cooperate with the Contractor and all other subcontractors and materialmen employed on the Work in order to avoid complications and insure high quality workmanship in every respect, and in the manufacturing, assembling and erection of the Work shall employ only workers who are qualified, careful and efficient, in strict conformity with high quality standard practices.
2. Subcontractor shall at its own cost and expense protect its employees and other persons from risk of death, injury or bodily harm arising out of or in any way connected with the Subcontractor's Work.
3. The Subcontractor shall strictly comply with the Contractor's safety plan for the Project, including the zero tolerance policy and with all safety policies and procedures of the Owner, and in the Contract Documents.
4. The Subcontractor shall strictly comply with all applicable statutes, regulations, orders, rules requirements and standards of all governmental authorities having jurisdiction with respect to the Project, including without limitation, Federal, state and local OSHA regulations, Right to Know requirements, and Federal, state and local OSHA, Toxic and Hazardous Substances, Hazard Communication Standard and Lead Standard laws, and any and all laws pertaining to the performance of the Work in connection with the Subcontract, including any and all applicable Executive Orders, and the Fair Standards Practice Act of 1938, as amended. The Subcontractor shall indemnify, defend and save the Contractor harmless from any liability, loss, cost, penalty, damage or expense, including attorneys' fees, which Contractor may incur as a result of any claim, damage,

injury, cause of action, proceeding, citation, or work stoppage arising out of or in any way connected with any alleged violation by Subcontractor of any such statute, regulation, order, rule, requirement or standard.

5. Subcontractor understands and agrees that the Contractor will not make continuous or exhaustive inspections to assure Subcontractors compliance with applicable safety rules, regulations, or requirements. Subcontractor shall be solely responsible to assure the safety of its own employees, equipment, appliances, material, working conditions, techniques and procedures and Contractor is not responsible in any manner for the safety of Subcontractor's Work.
6. Subcontractor shall provide proper facilities at all times for the inspection of the Work by Contractor. Subcontractor, within twenty-four (24) hours after receiving written notice from Contractor to that effect, shall, at its own expense, proceed to repair and replace or remove from the ground or buildings all material, whether worked or unworked, as indicated by Contractor, and take down all portions of the Work which Contractor has, by written notice, determined is unsound or improper, or as in any way failing to conform to the drawings and specifications.
7. By executing the Purchase Order, the Subcontractor represents that it has thoroughly familiarized itself with the building site and soil conditions, and with the request for quotations, instructions to bidders, addenda issued prior to the date for receiving of proposals, plans and specifications for said Work, material and equipment and is familiar with the shipping and delivery facilities and all other matters and conditions which will affect the operation and completion of said Work and it assumes all risk therefrom.
8. All Subcontractor's employees shall conform to rules and regulations of Owner and Contractor on the premises, including all drug and alcohol testing required by the Contract Documents. When applicable, Subcontractor will comply with all aspects of the M.U.S.T. Drug and Alcohol Screening Program. The Subcontractor will ensure that all employees working on site will be current with the M.U.S.T. Program requirements before starting work on the site.
9. The Subcontractor shall at all times keep the site free from accumulation of waste materials or rubbish caused by its employees or work and, at the completion of the Work, it shall remove all its tools, scaffolding, and surplus materials and shall daily, or more frequently as the Owner or Contractor may require, collect its rubbish at places where directed by the Owner and Contractor and shall remove the rubbish from the site without delay. The Subcontractor shall do all required cleaning within twenty-four (24) hours after notice from the Owner or Contractor, whether verbal or in writing, and if the Subcontractor fails to do such cleaning, to the satisfaction of the Owner and Contractor, the Owner and Contractor may do the cleaning and charge the Subcontractor for all costs incurred as a result thereof.
10. If so required by the Owner or Contractor, the Subcontractor shall, at its own cost, provide, erect and maintain, at locations designated by the Owner or Contractor, fire proof tool sheds for storing the Subcontractor's tools, materials and equipment. The Subcontractor shall relocate its tool sheds as requested by the Owner or Contractor at the Subcontractor's own costs. The Owner or Contractor will not be responsible for any clothing, tools, materials, or equipment lost, damaged, stolen, or destroyed.

The Subcontractor, during the construction of the Work and while it is working on the site in any capacity whatsoever, and until the completion of the Project, shall protect all unfinished work and all materials on the site, all adjacent property and all tools, plant, equipment, and other appliances from the elements and from all other kinds of damage which may be caused in any manner whatsoever. The Subcontractor shall be entirely responsible for any loss or damage done to said Work, materials, tools, plant, equipment, and other appliances.

11. If at any time there shall be an encumbrance on the Project including a lien, claim against payment bond or any claim asserted, for which, if established, the Owner and Contractor might become liable, which arises from the Work of the Purchase Order, Contractor shall have the right to retain, out of any payment due or thereafter to become due, an amount sufficient to indemnify the Owner and Contractor which it deems proper to secure protection and/or satisfy such claim or lien. Should there prove to be any such lien or claim after all payments are made to the Subcontractor, it shall reimburse the Owner and Contractor for any amount they may pay in discharging such lien or claim including any and all legal fees or other charges.
12. Subcontractor further agrees that its breach of any other agreement, contract, subcontract or Purchase Order between the Contractor (or a Joint Venture that includes the Contractor) and Subcontractor pertaining to any other project or site shall be and constitutes a material breach of the Purchase Order. In the event of such breach of any other agreement, contract, or subcontract, the Contractor shall be entitled to all its rights and remedies provided hereunder with respect to a breach of the Purchase Order.

SECTION 12: SUBCONTRACTOR INDEMNITY BONDS

1. The Owner and/or the Contractor may require the Subcontractor to furnish bonds which indemnify the Owner and/or Contractor for obligations of the Subcontractor in connection with the contract.
2. Any bonds furnished by the Subcontractor shall be executed by a bonding company in an amount and form acceptable to the Owner and/or Contractor and executed by a duly authorized attorney-in-fact of a licensed corporate surety company or companies.
3. The Contractor will reimburse Subcontractor only for the cost for performance and payment bonds in the amount of the Purchase Order, when such bonds are required by the Owner.

SECTION 13: LIABILITY AND WORKERS' COMPENSATION INSURANCE REQUIREMENTS

1. Prior to commencement of any Work under the Purchase Order and until completion and final acceptance of the Work, the Subcontractor and each and every Sub-Subcontractor under its direction shall, at its sole expense, maintain the following insurance (or such other limits or coverage required by the Customer or Owner) on its own behalf, and Subcontractor will provide a Certificate of Insurance to Contractor before it begins work under the Purchase Order evidencing that Subcontractor has procured and is maintaining the following insurance coverages:
 - a) Statutory workers' compensation with employer's liability insurance coverage with limits of liability at least equal to the amount required by the Owner in the Owner's general specifications, or as required by any applicable law, regulation or statute, whichever is greater.

If a Subcontractor is self-insured for purposes of workers' compensation, the Subcontractor must submit a copy of a current letter, permit or certificate issued by the appropriate state agency in the state where the Work will be installed for the Owner. In the event that a Subcontractor is a qualified, approved self-insurer of workers' compensation, the following provision is included in the Purchase Order.

The Subcontractor waives any right of recovery Subcontractor may have or acquire against Owner, Architect-Engineer, Contractor, other contractor or other subcontractor of all tiers by reason of the Subcontractor having paid workers' compensation benefits as self-insurer.

b) Liability Insurance.

Comprehensive General Liability Insurance covering all operations by or on behalf of Subcontractor providing insurance for bodily injury, property damage and personal injury liability in form providing coverage of whichever is the greater of the following: (i) not less than that of a standard comprehensive general liability insurance policy with limits equal to or greater than the amount required by the Owner's specifications, or (ii) \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate. The Comprehensive General Liability Insurance coverage shall include the following perils:

Broad Form Blanket Contractual Liability for liability assumed under these Subcontractor General Conditions, the Contract Documents and all other contracts relative to the Work.

Completed Operations/Products Liability with a five (5) year extension beyond completion and acceptance of the installation of this system.

Broad Form Property Damage.

Personal Injury Liability.

Such insurance must include the interest of the Owner, Contractor, and all other indemnified parties named in the contract as additional insured parties.

c) Comprehensive Automobile Liability Insurance covering the use of all owned, leased, non-owned, and hired automobiles with a bodily injury and property damage limit equal to (i) the amount required by Owner's specifications, or (ii) a combined single limit for bodily injury or property damage of \$1,000,000.00 per occurrence, whichever is greater.

The Certificates of Insurance shall provide that no policy providing any of the foregoing coverages may be cancelled or reduced without thirty (30) days prior written notice to Contractor. All of the above insurance policies shall contain the following wording verbatim:

"It is agreed that this insurance will not be canceled, materially changed or not renewed without at least a thirty (30) days written advance notice to Owner and Contractor at their principle mailing address."

Any Comprehensive General Liability and Automobile Liability insurance policies procured and maintained by Subcontractor shall name as additional insureds, Contractor, Owner, and any other parties required by the Contract Documents.

2. In the event of a failure by the Subcontractor to purchase and maintain said insurance and to furnish satisfactory evidence thereof, the Owner and/or Contractor shall have the right but not the obligation to purchase and maintain insurance for all parties on behalf of the Subcontractor, who agrees to furnish all necessary information for procurement of the insurance, and pay the cost thereof to the Owner and/or Contractor immediately upon presentation of a bill.
3. Should the Subcontractor engage a Sub-Subcontractor, the conditions under this Agreement with respect to the purchase and maintenance of insurance will apply to each such Sub-Subcontractor.
4. The Contractor and Subcontractor waive all rights against each other and against the Owner, separate contractors, and all other subcontractors for damages caused by fire or other perils to the extent covered by property insurance required under these Subcontractor General Conditions, except such rights as they may have to the proceeds of such insurance.

SECTION 14: WARRANTY AND GUARANTEES

1. The Subcontractor warrants to the Owner and the Contractor that all materials and equipment furnished shall be new unless otherwise specified, and all Work under this Subcontract shall be of good quality, free from faults, and defects and in conformance with the Contract Documents. The Subcontractor specifically, but not exclusively, warrants that all Work furnished by the Subcontractor shall be merchantable and fit for the particular purpose as specified in the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized may be considered defective. The warranty provided in this Section shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.
2. The Subcontractor guarantees the materials, design and craftsmanship of its Work and the installation for the term as specified in the Owner Specifications or two (2) years from Start of Regular Production (SORP) or such time as the system is accepted by the Owner, whichever is longer. The Subcontractor agrees during the guarantee period to make any repairs required to correct any damage, defects or faults which may appear during the guarantee period at no expense to Contractor or Owner. The guarantee shall include all materials and equipment assigned Subcontractor by Contractor and Owner for installation.
3. The Subcontractor assumes full responsibility for the furnishing and satisfactory operation of all equipment outlined and/or implied in the Contract Documents.

SECTION 15: SUBLETTING AND ASSIGNMENT OF THE SUBCONTRACT

1. Subcontractor shall not assign or sublet the whole or any part of the Work without the written consent of the Contractor; and, if such written consent is provided, the Subcontractor shall remain fully responsible.
2. To the extent that assignments or subletting is contemplated by the Owner of the Work and are stated in the Contract Documents, all costs and expenses related to said assignments or subletting must be included in the Subcontractor's price.

SECTION 16: MAINTENANCE AND OPERATING INSTRUCTIONS

1. The Subcontractor shall furnish installation, maintenance and operating instructions, including parts list in quantities required by Contractor and/or the Owner within sixty (60) days from the date of the Purchase Order. Failure to provide these instruction manuals will delay final payment to the Subcontractor.
2. Manufacturer's standard brochures or manuals must be modified to reflect only the model or series of equipment furnished including any field or special modifications.
3. Instructions should include: An index, the Manufacturer's Name, Address and Phone, the Manufacturer's Representative's Name, Address and Phone, Procedures for Operation, Start-Up, Maintenance, Calibration and Trouble Shooting, Complete Electrical Wiring Diagrams, Complete Parts List, in addition to other data required by the Contract Documents.
4. Subcontractor shall furnish qualified personnel to provide operation and maintenance instructions to Owner's personnel, without additional cost to Contractor, if so required by the Contractor's agreement with Customer and/or the Owner.
5. Subcontractor shall furnish ship tests, installation check, supervision for start-up and performance testing as required by Contract Documents.
6. Applicable spare parts and special tools as required by Contract Documents are included in the Purchase Order

SECTION 17: INDEMNIFICATION

1. Subcontractor shall indemnify, defend with counsel reasonably acceptable to Contractor, and hold Contractor, its Customer, and Owner and their respective shareholders, directors, members, managers, officers, employees, agents, successors and assigns (collectively referred to hereafter as "Indemnitees"), harmless from and against any and all claims (including construction or mechanics lien, builders trust fund or similar claims), demands, suits, actions, liabilities, losses, damages, judgments, costs and expenses, including attorney's fees, resulting from, arising out of or in connection with Subcontractor's actual or alleged failure to perform this Subcontract in accordance with the terms of this Agreement or the Contract Documents. The foregoing obligations of Subcontractor shall include but are not limited to indemnifying, defending and holding harmless the Indemnitees, from any and all claims made by third parties against any Indemnitee. Subcontractor's liability shall include, but is not limited to the following: (i) any alleged or actual infringement or violation by Subcontractor of any patent or patent right in connection with this Subcontract and any Work performed hereunder; (ii) any failure by Subcontractor, or its Sub-subcontractors to pay, laborers, vendors, equipment lessors, and materialmen, for labor, services or material provided in connection with Subcontractor's Work under this Subcontract, other subcontractors of Contractor and Owner's contractor's, any employee benefit plan or union plan or fund, or any labor or trade union; (iii) damages and other delay costs payable by Contractor; (iv) Contractor's increased costs of performance, such as extended overhead and increased performance costs resulting from Subcontractor caused delays or omitted or defective Subcontractor's Work; (v) Warranty, rework and repair costs; (vi) excess procurement cost; (vii) costs to obtain a substitute subcontractor or cost incurred to demand and ensure performance of Subcontractor's surety in the event of Subcontractor's default (viii) consultants' and/or experts' fees; and (viii) attorneys' fees and related costs..
2. Subcontractor shall indemnify, defend with counsel reasonably acceptable to Contractor, and hold Indemnitees harmless from and against any and all claims, liabilities, losses, damages, judgments, including those for injury or death sustained by any person, including but not limited to Subcontractor's employees, agents and Sub-subcontractors (hereinafter the "Subcontractor Parties"), or damage to property of any kind, costs and expenses, including attorney's fees (collectively, "Damages"), resulting from, arising out of or in connection with (i) the performance of the Work by the Subcontractor Parties, (ii) the presence of the Subcontractor Parties on the work site, or (iii) any breach of the Purchase Order by Subcontractor, whether or not caused by the active or passive negligence or other fault of an Indemnitee. The Subcontractor shall not be obligated to indemnify an Indemnitee for any damages or injuries caused by or resulting from the sole negligence of that Indemnitee. The indemnification obligations of Subcontractor under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the subcontractor under worker's compensation laws, disability benefit laws or other employee benefit laws of any state or jurisdiction. The indemnification obligations of Subcontractor under this paragraph and the immediately preceding paragraph shall survive the termination of the Purchase Order, for whatever reason.
3. Subcontractor shall pay for all materials, equipment, including repairs thereof and parts, fuel and labor, including related sales taxes and other taxes, ordered for or used by Subcontractor in connection with its Work under the Purchase Order. Subcontractor shall not permit any claim of lien or statutory withholding notice to be filed or served with respect to the Work performed by Subcontractor under the Contract and shall present to Contractor, on demand, satisfactory evidence of any such payment. In the event any such claim of lien or statutory withholding notice is filed or served with respect to Work performed by Subcontractor or its Sub-Subcontractor, then Subcontractor shall indemnify, defend with counsel reasonably acceptable to Contractor, and hold Indemnitees harmless from and against any and all claims, liabilities, losses, and damages associated therewith.
4. In the event of any accident or occurrence resulting in damages or injuries, including death, to any property or persons, the Subcontractor shall immediately notify the Contractor of the accident or occurrence and shall submit a written report within forty-eight (48) hours.
5. Except as otherwise provided pursuant to the insurance provisions of this Agreement, the Subcontractor assumes all risks of damages or injuries, including death, to any property or persons used or employed on or in connection with the Work, and all risks of damages or injuries, including death, to any property or persons wherever located, resulting from any action, omission or operation under the Purchase Order or in connection with the Work.

6. In the event the Subcontractor engages a Sub-Subcontractor to perform activities arising out of, or directly related to the Work, an indemnification provision as provided above shall be included in the agreement between the Subcontractor and its Sub-Subcontractors, which will inure to the benefit of Contractor, its Customer, and Owner and their respective shareholders, directors, members, managers, officers, employees, agents, successors and assigns.
7. Subcontractor's indemnification obligations as stated herein are independent from, and are not limited in any manner by, the Subcontractor's insurance coverage as required in this Agreement.
8. Nothing in this is intended to require Subcontractor to defend, indemnify or hold harmless any indemnitee to the extent prohibited by applicable law. The parties intend that this section be construed and enforced in compliance with the limitations of applicable law and that any non-compliant part be reformed or stricken to the minimum extent necessary to cure the compliance.

SECTION 18: DEFENSE OF PATENTS, PAYMENTS OF ROYALTIES

1. The Subcontractor shall defend all suits or claims for infringement by it of any patent rights that may be brought against Contractor or the Owner arising out of the Work, and shall hold Contractor or Owner harmless from loss on account thereof. The Subcontractor shall pay all royalties and shall obtain and pay for all licenses and permits pertaining to the Work.

SECTION 19: ARBITRATION

1. Any dispute or claim arising out of, or relating to the Purchase Order breach or performance thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, unless the parties mutually agree otherwise.
2. The decision and award of the arbitrators shall be final and binding upon both parties, and judgments may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.
3. This section shall not be deemed a limitation of rights or remedies which the Subcontractor may have under federal law, under state mechanic's lien law or under applicable labor or material payment bonds unless such rights or remedies are expressly waived by the Subcontractor.
4. Such arbitration shall take place in the State of Missouri, only, exclusive of all other States.

SECTION 20: INTERPRETATION OF AGREEMENT

1. These Subcontractor General Conditions shall be construed according to the laws of the State of Missouri.

SECTION 21: WAIVER

1. The failure of the Owner or Contractor to insist in any one or more instances upon a strict compliance with any provision of the Purchase Order, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment of the right of the Owner or Contractor hereafter to require compliance with such provision, or to exercise such option, of the Purchase Order, nor shall it constitute a waiver of any of Contractor's or Owner's other rights in connection with the Purchase Order.

SECTION 22: TITLE TO WORK AND MATERIALS

1. The Subcontractor warrants the title to all Work and materials covered by an application for payment will pass to the Owner no later than the time of payment. The Subcontractor further warrants that upon submittal of an application for payment, all work and materials for which certificates for payment have been previously issued and payments received from the Contractor shall be free and clear of liens, claims, security interest or encumbrances in favor of the Contractors, Subcontractors, materialmen, suppliers or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

SECTION 23: SEVERABILITY

1. If any provision or part of the Purchase Order shall be held invalid, all other provisions and parts of the Purchase Order shall nevertheless be deemed valid and binding upon Subcontractor and Contractor.

SECTION 24: APPLICABLE LAWS, PERMITS, FEES AND NOTICES

1. The Subcontractor shall give notices and comply with laws, ordinances, rules, regulations and order of public authorities having jurisdiction over or bearing on performance of the Work of this Subcontract. The Subcontractor shall secure and pay for permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Subcontractor's Work, the furnishing of which is required of the Contractor by its agreement with its Customer or the Contract Documents.
2. The Subcontractor shall comply with federal, state and local tax laws, social security acts and employment compensation acts and workers' compensation acts insofar as applicable to the performance of the Purchase Order.
3. Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

SECTION 25: MBE/WBE/DBE GOALS

1. Subcontractor acknowledges that Contractor's customer may have MBE/WBE/DBE content programs, goals and/or requirements. Subcontractor commits to participate in such programs at the levels of content in the Work, as set forth in the Purchase Order.

2. Content in the Work is measured by work performed and dollars paid, to properly accredited MBE/WBE/DBE firm(s). In the event that Subcontractor fails to meet this MBE/WBE/DBE requirement, Contractor reserves the right to withhold payment from Subcontractor equal to: a) any unsatisfied commitment or b) in the amount of any fines, penalties, costs or charges assessed against Contractor as a result of Subcontractor's failure to meet MBE/WBE/DBE goals or requirements, whichever is greater.

Subcontractor shall provide Contractor with Subcontractor's MBE/WBE/DBE certificate within 5 business days of signing the Purchase Order which certificate must have been issued by no later than the signing of the Purchase Order. Subcontractor shall provide Contractor with monthly status reports on MBE/WBE/DBE utilization. Subcontractor agrees to promptly provide such other information requested by Contractor or its Customer in furtherance of such goals or requirements.

SECTION 26: TERMINATION OR CANCELLATION CLAUSE

1. The Contractor reserves the right to terminate the Purchase Order at any time with or without cause upon written notice to Subcontractor. In such event, the Subcontractor shall be paid to date of termination for such portions of the Work as the Subcontractor and its Sub-Subcontractor have completed and for materials which have been provided, fabricated or delivered and which have been approved by the Owner and the Contractor, including reasonable expenses arising directly from the termination. Under no circumstance shall Subcontractor recover anticipated overhead and profit on that portion of the Work not completed. This right to terminate shall be in addition to all other rights and remedies granted the Contractor under the Purchase Order, and at law and in equity.

IN WITNESS WHEREOF, the parties have executed these Subcontractor General Conditions the day, month and year first written below.

SUBCONTRACTOR

CONTRACTOR

(Company)

KCI, Inc.

(Company)

By _____

By _____

(Print/Type Name)

(Print/Type Name)

(Title)

(Title)