

GENERAL TERMS AND CONDITIONS OF CONTRACT

1. DEFINITIONS: THE FOLLOWING DEFINITIONS SHALL APPLY TO THIS CONTRACT.

- 1.1 GSP - means GLOBAL STEEL PARTNERS, whose mailing address is Post Office Box 2467, Friendswood, Texas 77549.
- 1.2 GSP GROUP – means GSP and all its dealers, members, managers, officers, directors, employees, agents, partners, affiliated companies, subcontractors of any tier, Architects, Engineers, Consultants, successors, and assigns.
- 1.3 BUYER – means the person(s) and/or entity(ies) represented by the authorized signature on the acceptance page of the Contract, for whom the Services are being performed.
- 1.4 DEALER – means the authorized party representing GSP in the sale of products to BUYER.
- 1.4 BUYER GROUP - means and refers to the BUYER, along with all other parties claiming ownership in the PROJECT, and their respective members, managers, officers, directors, employees, agents, partners, affiliated companies, subcontractors of any tier, successors, and assigns.
- 1.5 PROJECT – means the scope of professional services that GSP will provide, or cause to be provided, to BUYER as set forth in the Proposal, as well as the structural building materials and components produced by GSP, its affiliated companies, a Third-Party Fabricator or Supplier that shall be furnished to BUYER, all in accordance with the Contract.
- 1.6 PROJECT MATERIALS – means the specially fabricated materials that will be incorporated into the Project by the BUYER, including the specially fabricated materials.
- 1.7 THIRD-PARTY FABRICATOR OR SUPPLIER - means third parties who furnish certain PROJECT Materials for the PROJECT, including specially fabricated structural PROJECT Materials ("PROJECT Materials").
- 1.8 CONTRACT – means the agreement and understanding of the parties governing the PROJECT, and includes these Terms and Conditions of Contract, the Approval Documents, any written Change Orders executed by GSP and BUYER, any Invoices issued pursuant to the terms of the Contract, and (when available and executed by GSP and BUYER) the Final Approval Drawings, together with any exhibits, schedules, or attachments to any of the foregoing.
- 1.9 DELIVERABLES – means the services and work product specified in the Contract to be provided by GSP to BUYER, including any Drawings.
- 1.10 DESIGN SERVICES – means all the professional services, engineering and design services and the work product derived therefrom to be provided to BUYER by GSP as described and otherwise defined in the Contract. The GSP services may also include (if stated in the Proposal) construction oversight and supervision of the Project to ensure that the engineering design produced from the GSP services is correctly implemented in the construction of the Project.
- 1.11 DRAWINGS - means the part of the Contract prepared or approved by GSP or its Consultants which graphically shows the scope, extent, and character of the PROJECT, as relates to the structural components specially designed by GSP and its Design Consultants or Third-Party Design Professionals for the PROJECT, including all approval, erection, assembly and/or construction drawings, anchor plans, design calculations and other specifications provided to BUYER with reference to the PROJECT. Shop Drawings are not Drawings so defined. Shop Drawings are available only on request by Change Order for an Additional Fees, as provided in Section 3.2. Drawings are not individually reviewed and certified by a third-party, licensed professional engineer, unless requested by BUYER and confirmed via Change Order subject to an Additional Fee.
- 1.12 SHOP DRAWINGS - means all drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled for 3rd party fabricators for the PROJECT.
- 1.13 BUYER'S CONTENT - means all materials, information, plans, drawings, photography, writings, and other content provided by BUYER for use in the preparation of Drawings.
- 1.14 SERVICES - means all services and the work product to be provided to BUYER by GSP and THIRD PARTIES as described and otherwise defined in the Contract.
- 1.15 DELIVERY NOTICE – means the written notification of approximate shipment dates provided by THIRD PARTIES and coordinated by GSP to BUYER before delivery of the PROJECT.

2. PROPOSAL:

The terms of the Proposal presented to BUYER shall be effective for 30 days OR upon the expiration of any "Order By" date, whichever comes first. In the event the Proposal is not accepted by executing these Terms and Conditions within the time identified, the Proposal, together with any related Contract terms and conditions and deliverables, may be subject to amendment, change or substitution.

3. PRICE AND PAYMENT TERMS:

- 3.1 PRICE. Estimated fees and charges for the PROJECT are set forth on the pricing and acceptance portion of the Proposal for professional design service fees and charges, as well as estimated charges for Third-Party PROJECT Materials. The Contract Price is subject to change for a variety of reasons set forth in the Contract, including, but not limited to, as a result of (a) a change in PROJECT scope, (b) the accrual of Additional Fees, (c) a variance between the actual cost of the PROJECT Materials (as per Invoice from Third Party) and GSP'S estimate provided in the Proposal, (d) the accrual of expenses due from BUYER in connection with the delivery of PROJECT Materials, as described herein, including in Section 4, (e) price increases of any Third-Party Fabricator or Supplier to which this Contract is subject, as described in Section 4.1, and (f) for other reasons provided herein.
- 3.2 ADDITIONAL FEES. GSP will charge and BUYER agrees to pay Additional Fees if (1) BUYER requests changes to the design of the PROJECT or GSP'S scope of work set forth in the Proposal, (2) BUYER'S project involves 3RD Party Review for permitting, (3) GSP'S interaction with outside architects, engineers, contractors, or other professionals retained or hired by BUYER or Owner exceed the usual and customary interaction, in GSP'S reasonable determination, and/or (4) it is provided by Change Orders agreed to between the parties. Such Additional Fee will be on a time and materials basis, including at GSP'S standard hourly rates as follows: (a) Engineer/Architect \$200.00/hr, (b) Senior Designer 180.00/hr, (c) Senior Structural Detailer \$120.00/hr, (d) Detailer \$80.00/hr, (e) Draftsman \$60.00/hr, (f) Administrative Staff \$60.00/hr, (g) Principal Designer \$240.00/hr (h) Executive \$120.00/hr,

and at the standard rates of any Third-Party Fabricator or Supplier, as well as any Consultants with whom GSP subcontracts to provide the Services. In the event BUYER requests and GSP agrees to provide shop drawings, the minimum Additional Fee will be the greater of (A) 10% of the estimated PROJECT fees and charges set forth in the Proposal or (B) \$3500 plus all associated engineering fees. BUYER agrees to pay to GSP any Additional Fees accruing under this Contract within five (5) business days of receipt from GSP of an invoice or (when applicable) a change order. Such Additional Fees shall be in addition to all other amounts payable under the Contract, despite any maximum budget, contract price or final price identified therein. GSP may extend or modify any delivery schedule or deadlines in the Contract as may be required by any such Changes. If in the case of 3RD Party Review involvement for BUYER'S permitting, BUYER agrees that the time allotment for services is in 5-hour increments and shall be paid up-front prior to work commencing.

3.3 **TAXES.** GSP designs specially fabricated materials that are provided by GSP and third parties, and BUYER agrees that these materials' taxable amount is incalculable until BUYER approves the final design. All materials are supplied by Third Parties, and any tax amounts estimated are solely for informational purposes and do not constitute a charge. GSP will provide estimates upon request, and BUYER is solely responsible for paying any applicable sales, use, or value-added taxes that may be imposed on this Contract by taxing authorities, even if calculated or assessed after the Proposal. When preparing invoices for the PROJECT, GSP will utilize available information to estimate the appropriate tax in effect on the shipment date, as required by various taxing authorities. However, should subsequent information reveal a deficiency from BUYER, or a tax audit indicating a different tax amount is due, BUYER agrees to be responsible for promptly paying any tax deficiency, including associated penalties and interest. Furthermore, BUYER acknowledges and agrees that in the event of the discovery of any tax obligation owed by BUYER arising from the sale of the goods, including through audit or other means, the enforcement of this Contract's terms may be tolled beyond the statute of limitations as necessary for the resolution of such tax-related matters. GSP'S design and engineering fees may be non-taxable items of the contract depending on the services provided.

3.4 **PAYMENT TERMS:** All amounts due GSP under this Contract shall be due and payable in United States dollars at GSP'S offices in Galveston County, Texas, U.S.A. without offset or withholding of any kind. The PROJECT Deposit identified in the Proposal shall be due upon acceptance of the Proposal and these Terms and Conditions of Contract and is a condition precedent to GSP'S obligation to commence its Services. The PROJECT Deposit is nonrefundable. GSP'S contract includes structural design and engineering of the building being sold. Additional civil, MEP, HVAC, Architectural, Detailing or other professional design services are not included unless specified in the contract. Jobs require progress payments. All remaining fees and charges under this Contract, including any Additional Fees, and any amounts due to any Third-Party Fabricator or Supplier, shall be due and payable as provided in the Proposal, as well as invoices and/or change orders contemplated by this Contract. Payment must be completed no later than upon the notice of shipment (or partial shipment) of the building components and materials. In cases of shipment delay at the request of the BUYER, final payment becomes due. All amounts due shall become payable either upon notification of shipment or prior to 10 days before the scheduled delivery date.

3.5 **PAYMENT DEFAULT:** If BUYER fails to make payment in accordance with the terms of the Contract, in addition to all other rights arising under this Contract, the law or in equity, GSP has the rights to (a) charge interest on the unpaid balance at the highest rate allowed by law, (b) discontinue further shipments of the PROJECT, or PROJECTS, to BUYER under this Contract, or any other contract between BUYER and GSP until payment is made or until GSP receives adequate assurances of performance from BUYER acceptable to GSP, (c) limit or cancel any credit extended to BUYER hereunder upon written notice to BUYER, (d) charge to and receive as Additional Fees from BUYER any and all costs associated with collecting amounts due and enforcing its rights hereunder, including, but not limited to, its attorney's fees and costs, (e) divide the Deliverables under this Contract into separate shipments and to invoice for such shipments to BUYER separately, in which case payment in full for each separate shipment shall be a condition precedent to further perform. There shall be no retainages, withholdings, or deductions by BUYER from the amounts due under the Contract.

4. FABRICATION AND SHIPMENT/DELIVERY:

4.1 **PROJECT Materials Delivery:** Unless otherwise stated elsewhere herein, the PROJECT Materials shall be delivered to BUYER F.O.B. from one or more GSP facilities, designated Third-Party Fabricator or Supplier. In addition to the purchase price, BUYER shall be responsible for all costs associated with the PROJECT Materials, including any insurance, transportation and freight, cartage, warehousing, any applicable local, state and/or federal tax, and all other charges associated with loading and/or shipping, which will be included in the amounts that will be invoiced. BUYER must accept delivery of the PROJECT materials when tendered by GSP or the Third-Party Fabricator or Supplier, and all demurrage, standby, off-loading, or other costs associated with any delay in accepting delivery of the PROJECT shall be borne by BUYER. GSP shall make reasonable efforts to accommodate BUYER'S requested shipping dates but shall not be bound by those dates. Fabrication and shipping dates specified in GSP'S "Delivery Notice" are approximate, and GSP shall not be responsible for delayed direct shipment of materials by Third-Party Fabricator or Suppliers. If shipment of the PROJECT is delayed at BUYER'S request or because of Force Majeure, then BUYER shall be responsible for all costs associated with the storage of materials, any necessary redesign work, or Additional Fees, and/or additional materials needed for the PROJECT due to redesign or wear and tear while in storage. The freight charges shown on Contract reflect estimated amounts applicable to the materials to be purchased from the Third-Party Fabricator or Supplier as of the Contract date, including any fuel surcharges currently being imposed by the various freight lines. If fabrication of the PROJECT is delayed for any reason including, but not limited to, the request of the BUYER or for Force Majeure, for a continuous period of ten (10) calendar days or more, the PROJECT shall be subject to re-pricing to reflect any increases in labor and/or material cost and any associated Additional Fees, all of which BUYER agrees to pay. Should BUYER refuse delivery of any components or materials for the PROJECT beyond 30 days from tender and fail to arrange and pay for storage of said materials as well as comply with any other terms required by GSP or Third-Party Fabricator or Supplier during said period, the BUYER forfeits all right to such PROJECT Materials and remains responsible for the Contract Price and any other damages resulting from same.

4.2 **BUYER'S Transport of Materials:** In the event BUYER provides for transportation of materials from the fabrication facilities to the PROJECT site, which would be at BUYER'S sole and complete expense, BUYER shall assume all risk of loss or damage upon commencement of loading onto BUYER'S transportation vehicle and BUYER shall protect, defend, indemnify and hold GSP GROUP and Third-Party Fabricator or Suppliers harmless from and against any loss or damage to such materials REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE IS CAUSED OR CONTRIBUTED TO BY THE NEGLIGENCE (INCLUDING ACTIVE, PASSIVE, SOLE, JOINT, CONCURRENT OR GROSS NEGLIGENCE) OR ANY OTHER FAULT OF ANY MEMBER OF GSP GROUP OR THIRD-PARTY FABRICATOR OR SUPPLIER. If BUYER will arrange for transport of materials as provided herein, BUYER agrees to comply with GSP'S delivery schedule, and BUYER must accept delivery of the PROJECT when tendered by GSP (in this case at the fabrication facility) and all demurrage, standby, off-loading, or other costs associated with any delay in accepting delivery of the PROJECT materials shall be borne by BUYER.

4.3 **Materials Shortages/Damages/Misfits/Discrepancies on Delivery:**

A. **BUYER'S Duty on Delivery.** BUYER is responsible for accounting for all PROJECT Materials on the Bill of Lading at the time of delivery of the PROJECT Materials to the BUYER, or in the case of BUYER transport from the fabrication facility as per Section 4.2 at the time of pickup by the BUYER

from the facility. For purposes of this Section 4.3, both the date of delivery of the materials to the jobsite by GSP and/or Third-Party Fabricator or Supplier and, where applicable, the date materials are picked up by the BUYER from the fabrication facility are hereafter referred to as the "Delivery Date."

B. Notice of Problem on Delivery. GSP shall not be liable for any shortages, damages, misfits or other discrepancies or problems with the PROJECT Materials, unless directly resulting from an error in GSP'S Drawings and unless BUYER fully and timely complies with Section 4.3. In the event of any shortage, damage, misfit or other discrepancy or issue with the PROJECT Materials on the Delivery Date, BUYER must (1) provide written notice to GSP, detailing any alleged problem with the PROJECT Materials, within fourteen (14) days of the Delivery Date, and (2) when requested by GSP (a) adequately substantiate (in GSP'S sole discretion) any claim with documentation and photos and (b) provide GSP with jobsite access to inspect the PROJECT Materials. If the BUYER fails to comply with Section 4.3, GSP shall have no obligation or responsibility to BUYER whatsoever regarding the PROJECT Materials on the Delivery Date, and BUYER expressly waives all claims, demands and actions regarding the same. In the event BUYER provides timely notice and adequately substantiates (as provided herein) a problem with the PROJECT Materials on the Delivery Date, GSP agrees (at its election and in its reasonable discretion) to (1) detail/specify an appropriate fix in accordance with industry standards, and/or (2) coordinate for the provision of suitable replacement materials. BUYER agrees to accept the foregoing election of GSP as its sole and exclusive remedy regarding any timely reported and substantiated problem with the PROJECT Materials.

5. RELATIONSHIP OF THE PARTIES:

5.1 Independent Contractor. GSP is an independent contractor, not an employee of BUYER or any company affiliated with BUYER. GSP shall provide the Services under the general direction of the BUYER, but GSP shall determine, at GSP'S sole discretion, the manner and means by which the Services are accomplished. The Contract does not create a partnership or joint venture and neither party is authorized to act as the agent for the other or bind the other party except as expressly stated in this Contract. All rights, if any, granted to BUYER are contractual in nature and are wholly defined by the express written agreement of the parties and the various Terms and Conditions of Contract.

5.2 GSP'S Consultants. GSP shall be permitted to engage and/or use Third-Party engineers or others as independent contractors to provide the Services for the PROJECT ("GSP'S Consultants"). Notwithstanding same, GSP remains responsible for such GSP Consultant's compliance with the Terms and Conditions of Contract.

5.3 Third-Parties, Fabricator's or Suppliers. The PROJECT MATERIALS will be fabricated by GSP or an affiliated company from Third Party Fabricators or Suppliers or other vendors; however, GSP is not acting as agent of such Third-Party Fabricators or Suppliers or vendors.

6. USE OF DELIVERABLES:

6.1 All Deliverables are instruments of service in respect to this PROJECT, and GSP shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of GSP) whether the PROJECT is completed. BUYER shall not rely in any way on any Deliverable unless it is in printed form, signed or sealed by GSP or one of its Consultants. BUYER acknowledges that GSP will have no adequate remedy at law in the event BUYER uses the Deliverables in any way not permitted hereunder, and hereby agrees that GSP shall be entitled to equitable relief by way of temporary and permanent injunction, and such other and further relief at law or equity as any arbitrator or court of competent jurisdiction may deem just and proper, in addition to any and all other remedies provided for herein.

6.2 BUYER may make and retain copies of Deliverables for information and reference in connection with use on the PROJECT by BUYER. GSP grants BUYER a limited license to use the Deliverables on the PROJECT, extensions of the PROJECT, and for related uses of the BUYER, subject to receipt by GSP of full payment for all services relating to preparation of the Deliverables and subject to the following limitations: (1) BUYER acknowledges that such Deliverables are not intended or represented to be suitable for use on the PROJECT unless completed by GSP, or for use or reuse by BUYER or others on extensions of the PROJECT, on any other PROJECT, or for any other use or purpose, without written verification or adaptation by GSP, for which BUYER shall compensate GSP at rates or in an amount to be agreed upon by BUYER and GSP; (2) any such use or reuse, or any modification of the Deliverables, without written verification, completion, or adaptation by GSP or its Consultants, as appropriate for the specific purpose intended, will be at BUYER'S sole risk and without liability or legal exposure to GSP or to its officers, directors, members, partners, agents, employees, and Consultants; (3) BUYER shall indemnify and hold harmless GSP and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Deliverables without written verification, completion, or adaptation by GSP; and (4) such limited license to BUYER shall not create any rights in third parties.

7. ADDITIONAL BUYER RESPONSIBILITIES:

In addition to other matters set forth in the Contract, BUYER acknowledges and agrees to be responsible for performing the following in a reasonable and timely manner, and BUYER agrees to pay any Additional Fees or other expenses associated with any failure to do so:

7.1 Coordination of any decision-making with parties other than GSP or its Consultants.

7.2 Client Content. Provision of the Client Content in a form suitable for reproduction or incorporation into the Deliverables without further preparation, unless expressly provided otherwise in the Proposal.

7.3 Review and Approval of Deliverables. Reviewing the Deliverables and promptly (or within any time specified) either (1) approving them or (2) providing written comments and/or corrections sufficient to identify the BUYER'S concerns, objections, or corrections. BUYER agrees that all GSP Deliverables have been reviewed by BUYER and found to be correct prior to approving and/or signing, and GSP may rely on such approval or signature to signify as much. In the event errors are discovered after BUYER approves any Deliverable, BUYER agrees to be responsible for all costs of correcting or associated with such error.

7.4 Final Payment. BUYER understands it is BUYER'S responsibility to have a Certified Cashier's Check ready and available to present to the delivery agent at the time of delivery. If payment is not ready and/or available at time of arrival BUYER agrees that GSP has the right to stop the delivery agent from making delivery in which case BUYER agrees to be solely responsible for and to pay all additional charges and fees resulting therefrom, in addition to other remedies provided to GSP hereunder.

7.5 Delivery. BUYER understands it is BUYER'S responsibility at time of delivery to confirm that GSP'S parts list matches the Bill of Lading supplied by the delivery agent, and to comply with the provisions of Section 4.3. BUYER understands it is BUYER'S responsibility to unload, at BUYER'S expense, all PROJECT Materials delivered for the PROJECT, and to do so within a reasonable timeframe.

7.6 Installation/Erection/Construction. BUYER agrees to install, erect and/or construct (or ensure that any contractor hired for this purpose shall install, erect and/or construct) all PROJECT Materials, including, but not limited to, any metal roof, wall systems, PBR and PBU Panels, in accordance with the fabricator's manuals and specifications.

8. REPRESENTATIONS AND WARRANTIES:

8.1 By BUYER. Buyer represents, warrants and covenants to GSP that (1) BUYER owns all right title and interest in, or otherwise has full right and authority to permit the use of, the Buyer's Content, including but not limited to architectural drawings, plans, specifications, renderings, mock-ups, designs, sketches or other works used in the design of a structure in whole or part, (b) to the best of the BUYER'S knowledge, the BUYER'S Content is accurate, legal, conforms to any applicable ethical and professional standards, does not infringe on the rights of any third party, and use of the BUYER'S Content as well as any Trademarks in connection with the PROJECT does not and will not violate the rights of any third parties, (c) BUYER shall comply with all laws and regulations as they relate the PROJECT or the Deliverables, (d) BUYER and/or its agents are competent to review and approve the Deliverables as required herein, and (e) BUYER is sufficiently educated/experienced to comply with all of its responsibilities arising under the Contract, as well as to purchase, install and erect, supervise the erection, or hire competent personnel to erect and install the PROJECT and will erect and install the PROJECT (or cause them to be erected and installed) in accordance with GSP'S Drawings and any Third-Party Fabricator's specifications/manuals.

8.2 By GSP.

A. Deliverables/Design. Subject to the other terms of this Contract, GSP agrees to provide the Services identified in the Contract in accordance with all reasonable professional standards. Specifically, GSP represents to BUYER that the design of the PROJECT will conform to generally accepted structural steel design and shall comply with the requirements and standards of the Code specified in the "Building Design Data" section of Quotation (PO) Number presented to BUYER as part of this sale. BUYER acknowledges the receipt of the "Customer Responsibilities" document in the BUYER'S APPROVAL PACKET and agrees to be bound by the terms set forth therein. Specifically, item 2 of the Customer Responsibilities states that BUYER is responsible for verifying required building codes and loads with the local code department and/or building officials. Further, BUYER acknowledges that the interpretations of codes, wind and seismic forces, resistance and design calculations can vary infinitely by calculation and opinion and through approval of drawings. GSP makes no warranty and hereby disclaims any responsibility with respect to the design, engineering, or construction of (i) any portion of the PROJECT to be provided by third parties and (ii) the foundation (including the design of anchor bolt embedment in the foundation) upon which the PROJECT is erected by BUYER or third parties. BUYER acknowledges that if BUYER requests the code or load requirements to exceed the code specifications per County, State, or Federal Authorities, including any and all specific amendments applied to the current code at the time of signing this Contract, BUYER is responsible for obtaining design verification from a Third-Party qualified Licensed Professional Structural Engineer who is normally engaged in the design of structural steel and possesses a minimum of 10 years of experience in the proper design and fabrication of PEB steel structures, cold formed structural components, tapered column and rafter sections, corrugated panels and all other materials associated with the design of BUYER'S PROJECT. BUYER further acknowledges that the code prescribed and all pertinent amendments, changes, additions or modifications by the ICC, AISC, MBMA, AISI or other industry recognized entities providing acceptable mathematical equations, formulas or solutions as part of or incorporated into the prescribed code criteria referred as "BUILDING CODE" shall be strictly adhered to by any persons employed, contracted or otherwise connected with BUYER and involved in the review of the drawings, specifications and/or calculations provided.

B. Buyer Furnished Construction Drawings. If this PROJECT includes Architectural, erection and/or any other construction plans, GSP will use such construction plans for reference only and not as a design guide. GSP takes exception to all details and specifications unless expressly stated on the GSP contract. Specifically, this PROJECT will be fabricated in accordance with GSP'S standard procedures and specifications. GSP shall furnish to BUYER certain Construction Drawings (excluding shop and fabrication drawings) reasonably necessary for the erection of the PROJECT by competent and experienced workmen, but makes no other warranty, whether expressed or implied, with respect to the Construction Drawings. GSP reserves the right to change or modify the design and construction of the PROJECT and to substitute material equal to or superior to that originally specified. GSP'S Construction/Erection Drawings are not intended to specify any method or sequence of erection to be followed by BUYER or that BUYER may engage for that purpose. BUYER is and shall remain solely responsible for the safety and appropriateness of all techniques, methods and procedures utilized in the erection of the PROJECT as well as the completeness and appropriateness of the Construction Drawings as approved by BUYER. BUYER is responsible for determining if the Construction Drawings satisfy all federal, state, and local requirements. In the event of any conflict between the Contract and GSP'S Construction Drawings, GSP'S Construction Drawings shall absolutely govern over the Contract. By reviewing and signing GSP'S approval drawings, BUYER is confirming and accepting all material, design and configuration as set forth on GSP'S final (non-preliminary) approval drawings. This Contract does not include any material or labor in connection with foundations, concrete, setting of anchor bolts, grouting under columns or around bottom of wall sheets, electrical installations, plumbing, painting, heating, masonry, interior finish, partitions, step flashing to existing PROJECTS, valley gutter downspouts or drains or any other materials other than metal PROJECT Materials unless specifically provided for in the Contract.

C. EXCEPT FOR ANY EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS CONTRACT, GSP MAKES NO WARRANTIES WHATSOEVER AND EXPLICITLY DISCLAIMS ANY OTHER WARRANTIES OF ANY KIND RELATING TO THIS CONTRACT, THE SERVICES, THE DELIVERABLES OR THE MATERIALS SUPPLIED BY THIRD PARTIES IN CONNECTION HEREWITH, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO WARRANTIES THAT MAY EXIST SHALL BECOME EFFECTIVE OR BIND GSP, ITS CONSULTANTS OR THIRD-PARTY FABRICATOR OR SUPPLIERS UNLESS AND UNTIL FULL PAYMENT FOR THE PROJECT AND/OR ANY WARRANTY FEE(S) PAYABLE WITH RESPECT THERETO SHALL HAVE BEEN RECEIVED. With respect to PROJECT Materials, BUYER shall look exclusively to any warranties and/or guarantees provided by the Third-Party Fabricator or Supplier of such PROJECT Materials. Any warranties referenced herein are non-transferable and/or assignable.

9. CHANGES:

Requests for additions, deletions or revisions to the PROJECT must be presented to GSP by written Change Order, including changes to the Construction Drawings, and are not enforceable unless signed by both parties. GSP shall review all written Change Order requests submitted to it and deliver to BUYER a written Change Order reflecting the additions, deletions or other revisions requested by the BUYER and specifying the price adjustment, if any, to be made by GSP in connection therewith. No Change Order request submitted to GSP shall become a part of this Contract or obligate GSP in any fashion unless and until GSP issues a Change Order with respect thereto, which is executed by both parties to this Contract. GSP will not be responsible for any

delay in fabrication or shipment caused by Change Orders requested by BUYER.

10. TERM AND TERMINATION:

10.1 **Term.** This Contract shall commence upon acceptance of the Proposal by execution by the BUYER of the documents presented therewith, and it shall remain effective until the Services are completed and delivered, or it is earlier terminated as provided herein. Notwithstanding the foregoing, certain provisions survive the end or early termination of this Contract as provided below.

10.2 **Termination.** Prior to release for fabrication of the PROJECT covered by this Contract, this Contract may be terminated for convenience of any party upon notice, or the mutual agreement of the parties, or for cause if any party files a petition (or is involuntarily placed) in bankruptcy or makes an assignment for the benefit of creditors. GSP may further terminate or suspend this Contract immediately for any cause including, but not limited to, (a) BUYER'S failure to timely make any payment due, or fulfilling any other payment conditions, under the Contract, or (b) if BUYER otherwise breaches any of its material responsibilities or obligations under this Contract, and such breach is not remedied within five (5) calendar days from receipt of written notice thereof.

10.3 In the event of termination as provided in Section 10.2, GSP shall be compensated for the Services performed through the date of cancellation in the amount of (a) an advance payment, (b) a prorated portion of the Contract Price, or (c) hourly fees for work performed by GSP and its Consultants as of the date of termination, whichever is greater; and BUYER shall pay all expenses, fees, out of pocket costs together with any Additional Fees incurred through and up to, the date of cancellation. In the event of termination for convenience by BUYER, BUYER shall pay in addition to the above an early termination fee equal to 33% of the Contract Price, and BUYER shall not have rights to use Deliverables except upon the written consent from GSP provided after termination. In the event of a termination for cause by GSP, GSP shall further be entitled to all other damages and remedies allowed by this Contract, at law and/or in equity. If GSP terminates this Contract for cause, GSP is entitled to all the foregoing amounts, in addition to any other damages and remedies provided under this Contract, at law or in equity, and has full rights of setoff and offset with respect to any deposits or payments made by BUYER.

10.4 BUYER may not cancel this Contract once the PROJECT has been released for fabrication.

10.5 Notwithstanding anything to the contrary contained elsewhere herein, the provisions of Sections, 1, 2, 3, 4, 5, 6, 8.1, 10, 11, 12, 13 shall survive the termination, cancellation, or early expiration of this Contract.

11. LIMITATION OF LIABILITY:

In the event any problems arise during the PROJECT, they will be remedied as, when, and how provided in the Contract. In the event of a suit for damages, the maximum liability of GSP or GSP GROUP to BUYER for damages for all causes of action whatsoever, and BUYER'S maximum remedy, regardless of the form of action, whether in contract, tort or otherwise, shall be limited to the lesser of GSP'S net profits or ten percent (10%) of the Contract Price. In no event shall GSP be liable for any lost profits, business interruption, or for any indirect, incidental, special or consequential, exemplary or punitive damages, arising out of or relating to the materials or the services provided by GSP or Third-Party Fabricator or Supplier under this Contract, even if GSP has been advised of the possibility of such damages, and notwithstanding the failure of essential purpose of any limited remedy.

12. INDEMNITY:

12.1 **Construction.** This provision should be construed fairly and reasonably and neither more strongly for nor against either party. Nothing herein shall be construed to affect any rights of indemnity granted by any statute or common law. To the extent of any conflict between this provision and any right to indemnification granted by statute or common law, those rights of indemnification granted by statute or common law shall prevail over the provisions of this Contract.

12.2 Subject to the terms, conditions, express representations and warranties provided in this Agreement, BUYER ("Indemnitor" under this Section 12.2) agrees to indemnify, defend, save and hold harmless GSP ("Indemnitee" under this Section 12.2) from (1) any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a Third-Party for or relating to negligence or fault, breach or violation of statute, ordinance, or governmental regulation or rule, or the breach of this Contract by Indemnitor or its agents, employees or any party under Indemnitor's control or supervision; and (2) illness, injury or death, suffered by any employee of Indemnitor's (including its agents or subcontractors of any tier), employees arising out of, relating to or in connection with the erection, installation, construction, use, or maintenance of the PROJECT and REGARDLESS OF WHETHER CAUSED OR BROUGHT ABOUT BY INDEMNITEE'S NEGLIGENCE (INCLUDING ACTIVE, PASSIVE, SOLE, JOINT OR CONCURRENT NEGLIGENCE) OR ANY OTHER THEORY OF LEGAL LIABILITY, INCLUDING STRICT LIABILITY, AND INCLUDING PRE-EXISTING CONDITIONS.

12.3 NOTHING HEREIN SHALL BE CONSTRUED TO REQUIRE INDEMNITOR TO INDEMNIFY INDEMNITEE FOR AN INDEMNIFIED CLAIM CAUSED BY OR RESULTING SOLELY FROM AN INDEMNITEE'S OWN NEGLIGENCE UNLESS OTHERWISE PERMITTED BY APPLICABLE PROVISIONS OF CHAPTER 151 OF THE TEXAS INSURANCE CODE OR OTHER APPLICABLE LAW. IT IS AGREED THAT WITH RESPECT TO ANY LEGAL LIMITATIONS NOW OR HEREAFTER IN EFFECT AND AFFECTING THE VALIDITY AND ENFORCEABILITY OF THE INDEMNIFICATION OBLIGATION UNDER THIS SECTION, SUCH LEGAL LIMITATIONS ARE MADE A PART OF THE INDEMNIFICATION OBLIGATION TO THE MINIMUM EXTENT NECESSARY TO BRING THIS SECTION INTO CONFORMITY WITH THE REQUIREMENTS OF SUCH LIMITATIONS, AND AS SO MODIFIED, THE INDEMNIFICATION OBLIGATION SHALL CONTINUE IN FULL FORCE AND EFFECT.

13. GENERAL PROVISIONS:

13.1 **Governing Law and Dispute Resolution.**

A. **Governing Law.** The construction, performance and enforcement of this Contract shall be in accordance with the laws of the State of Texas without regard to its conflict of law provisions or the conflict of law provisions of any other jurisdiction.

B. **Agreement to Arbitrate.** Any dispute, controversy or claim arising out of or relating in any way to this Contract, including without limitation any dispute concerning the construction, validity, interpretation, enforceability, or breach of the Contract, shall be exclusively resolved by binding arbitration

upon a Party's submission of the dispute to arbitration. In the event of a dispute, controversy or claim arising out of or relating in any way to the Contract, the complaining Party shall notify the other Party in writing thereof. Within thirty (30) days of such notice, the parties shall confer and attempt to resolve the dispute in good faith. Should the dispute not be resolved within thirty (30) days after such notice, the complaining Party shall seek remedies exclusively through arbitration. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after two years from when the aggrieved party knew or should have known of the controversy, claim, dispute, or breach. No demand for arbitration may be made after the date when the institution of legal or equitable proceedings based on such a claim or dispute would be barred by the applicable statute of limitation. The number of arbitrators shall be ONE. The place of arbitration shall be Galveston County, Texas. Except as modified by this Contract or other written agreement of the parties, the arbitration shall be conducted in accordance with the rules of the American Arbitration Association rules applicable then in effect for Commercial disputes. The arbitrator(s) shall require exchange by the parties of documents relevant to the issues raised by any claim, defense, or counterclaim or on which the producing party may rely in support of or in opposition to any claim, defense, or counterclaim, with due regard for eliminating undue burden and expense and the expedited and lower cost nature of arbitration. At the request of a party, the arbitrator may at his or her discretion order the deposition of witnesses; provided, however, when permitted, depositions shall not be permitted to exceed a maximum of three depositions per party, each of a maximum of four hours duration. The arbitrator is not authorized to award punitive or other damages not measured by the prevailing party's actual damages. The cost of the arbitration proceeding and any proceeding in court to confirm or to vacate any arbitration award, as applicable (including, without limitation, reasonable attorneys' fees and costs), shall be borne by the unsuccessful party, as determined by the arbitrator(s), and shall be awarded as part of the arbitrator's award. The parties agree that the arbitrator(s) has authority to award temporary and permanent injunctive relief. The parties specifically consent to the jurisdiction and venue of the local, state and federal courts of the State of Texas, County of Galveston, and hereby waive any jurisdictional or venue defenses available to them relating to such courts. Judgment on the award rendered by the arbitrator(s) may be entered and enforced in any court having jurisdiction thereof. The arbitration proceedings and arbitration award shall be maintained by the parties as strictly confidential, except as is otherwise required by court order or as is necessary to confirm, vacate or enforce the award and for disclosure in confidence to the parties' respective attorneys, tax advisors and senior management and to family members of a party who is an individual. This Section shall survive the termination or cancellation of this Agreement.

13.2 This Contract comprises the entire understanding of the parties hereto on the subject matter herein contained, and supersedes and merges all prior and contemporaneous agreements, understandings and discussions between the parties relating to the subject matter of this Agreement. In the event of a conflict between the Final Approval Drawings and any other Contract documents, the terms of the Final Approval Drawings shall control. Any other ambiguities shall be resolved with the most reasonable and legally valid construction, without regard to authorship of such provisions. No modification of this Contract shall be binding upon the parties unless in writing and signed by an authorized agent of GSP and BUYER. GSP shall not be bound by any schedules or deadlines of any kind applicable or related to the BUYER or the PROJECT, even if known or disclosed to GSP, unless and until GSP agrees in writing signed by an agent of GSP to be bound by such deadline or schedule, subject to the other terms and conditions hereof.

13.3 Except as specifically provided for elsewhere in this Contract, this Contract shall not be construed to confer any benefit on any Third-Party not a Party, nor shall it provide any rights to such Third-Party to enforce its provisions.

13.4 No benefit or right accruing to either Party under this Contract shall be waived unless the waiver is reduced to writing and signed by both Parties. Unless specified otherwise herein, the failure of either Party to exercise any of its rights under this Contract shall not constitute a waiver of those rights, nor shall such failure excuse the other Party from any of its obligations under this Contract.

13.5 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect and the invalid or unenforceable provision shall be replaced by a valid or enforceable provision.

13.6 Assignment. GSP hereby reserves the right to assign all or any portion of this Contract and all or any portion of amounts due hereunder without BUYER'S consent. BUYER may not assign this Contract without GSP'S written consent, which may be granted or withheld in GSP'S sole discretion.

13.7 BUYER represents and warrants that (i) it is a business consumer, (ii) it has knowledge and experience in financial, business and construction matters that pertain to the PROJECT that enables it to evaluate the merits and risks of the subject transaction, (iii) it is not in a significantly disparate bargaining position with respect to the subject transaction, (iv) it has been represented by legal counsel of its own selection in connection with the subject transaction and, (v) its legal counsel was not directly or indirectly identified, suggested or selected by any other party, or any agent of any other party, to this Contract.

13.8 Headings. The captions used in this Contract are for convenience only and shall in no way define limit or describe the scope or intent of this Contract or any part thereof.

13.9 Additional representations and warranties: GSP and BUYER agree that this Contract constitutes a legal, valid and binding obligation for each Party, enforceable against such Party in accordance with its terms, subject always to applicable bankruptcy, insolvency, receivership and other similar laws relating to or affecting the enforcement of creditor's rights generally and to general principles of equity. Further, BUYER and GSP warrant and represent the following to each other; that each: (a) is duly formed and organized and validly existing under the laws of the jurisdiction of its formation, (b) has all necessary corporate or similar power and authority to execute and deliver this Contract and to consummate the transactions contemplated hereby; and that this Contract, its execution and the fulfillment and compliance with the terms and conditions hereof, do not violate or conflict with any provision of or result in any breach of or default under any: (i) organizational documents of each Party, (ii) law or judicial, award, or similar decree, or (iii) agreement, to which GSP or BUYER are bound.

13.10 Changes in Law. The Contract is based on any applicable laws and regulations existing at the date of execution. BUYER agrees to reimburse GSP for all documented costs associated with any changes in the applicable law, regulations, or the administration of either which occurs after the date of execution of this Contract, and which has a material and demonstrable adverse impact on GSP or the PROJECT.

Payment: Certified Cashier's Check on Delivery with Down Payment(s) and/or progress payments as specified in purchase order.

PROPOSALS ARE SUBJECT TO THE GENERAL TERMS AND CONDITIONS OF CONTRACT AS OUTLINED ABOVE. THIS PROJECT IS BEING QUOTED USING GSP STANDARD SPECIFICATIONS UNLESS NOTED OTHERWISE.

By their execution of the signed PO/Contract, the parties hereto have agreed to all the terms and conditions of this Contract effective as of the last date of contract signature, and each signatory represents that it has the full authority to enter this Contract and to bind her/his respective party to all the terms and conditions herein.