

## Agreement Between Owner and Contractor

Made between The **Owner:**

**The Summit Condominium Association, Inc.**  
8743 Thomas Drive  
Panama City Beach, Florida 32408

and The **Contractor:**

**C-Sharpe Company, LLC**  
22657 Canal Road  
Orange Beach, AL 36561

For the following **Project:**

This Agreement Between Owner and Contractor (“Agreement”) made and entered into as of the 19th day of November, 2024 by and between C-Sharpe Company, LLC, 22657 Canal Road, Orange Beach, AL 36561 (hereinafter “Contractor”) and The Summit Condominium Association, Inc. - 8743 Thomas Drive, Panama City Beach, Florida 32408 (hereinafter “Owner”), pursuant to which Owner engages Contractor to perform the work identified in the Scope of Work attached hereto as Exhibit A in accordance with the Contract Documents. The Contract Documents include:

- This Agreement
- Scope of Work – attached and incorporated into this Agreement as Exhibit A
- General Conditions – attached and incorporated into this Agreement as Exhibit B
- Addenda and other documents that are attached and incorporated into this Agreement

The Contract Documents shall also include any Modifications as defined in Exhibit B. For purposes of the Contract Documents, “Contractor’s Work” shall mean the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations hereunder. The Contractor’s Work may constitute the whole or a part of the Project.

### **Time of Commencement and Substantial Completion:**

The work to be performed under the Contract Documents shall be commenced 12/09/2024 and substantial completion by 03/28/2025 (preconstruction work of submittals and material procurement to begin upon contract execution). Following commencement of Contractor’s Work, Contractor will diligently pursue the Contractor’s Work to completion. Owner acknowledges and agrees that the circumstances that may exist following a substantial weather event and during the ongoing COVID-19 pandemic are uncertain (the “Uncertain Circumstances”), including, without limitation, the condition of the Property and the improvements, the availability of labor, materials, equipment, and utilities, and the requirements of governmental authorities applicable to repair, restoration, and rebuilding of the improvements. Owner further acknowledges and agrees that, as a consequence of the Uncertain Circumstances and/or any Modifications (as defined in Exhibit B) to this Agreement, the scope of Contractor’s Work may change from time to time during the performance of the Work, Contractor may experience delays in the performance of the Work which are beyond Contractor’s control and the estimated completion date may change from time to time during the performance of Contractor’s Work.

Contractor shall not be responsible or liable to Owner for delays caused by circumstances or events beyond Contractor’s reasonable control, including, without limitation, any Uncertain Circumstances or any of the following: failure of the issuance of all necessary building permits within a reasonable length of time; payment of insurance proceeds; funding of loans; acts of God; stormy or inclement weather; vandalism; strikes, lockouts, boycotts, or other labor activities; changes in the scope of the Work; acts of public enemy; riots or civil commotion; shortages of labor, materials, supplies, equipment, and utilities; acts of governmental authorities; Owner’s failure to make payments under this Agreement when due; delays caused by inspection or changes ordered by inspectors; acts of independent contractors; unforeseen conditions in the Improvements or the Property; or any other circumstances beyond Contractor’s reasonable control.

**Contractor Compensation:**

Fixed Price Contract

The Scope of Work shall be performed for the total sum of **Two Hundred Eighty-Seven Thousand, Six Hundred Thirty-Two Dollars and Zero Cents (\$287,632.00)**, plus the amount of any approved change orders or other amounts as may be entered into between Owner and Contractor or changes in amounts resulting from unit pricing and/or accepted alternate materials or components approved by Owner, and if applicable, the architect/engineer.

Owner is fully responsible for payment to Contractor for Contractor’s Work and agrees to make such payment in a timely manner in accordance with the terms of the Contract Documents. Owner agrees to pay all sums due Contractor even if there is no insurance coverage or insufficient insurance coverage to pay for Contractor’s Work.

**Owner's Representative:**

Owner hereby designates and appoints **John Shebel** as the “**Owner’s Representative**” for the purpose of this Agreement and the Contract Documents. The Owner’s Representative shall be the sole liaison with Contractor for the duration of this Project and is hereby authorized to sign all work vouchers, sign change orders for additional work, approve pay requests, complete job close-out procedures in accordance with the General Conditions, and consent to, approve of, and authorize, on behalf of Owner, all other matters requiring Owner’s consent, approval, and authorization.

Entered into as of this 21 of november.

Owner  
**The Summit Condominium Association, Inc.**

DocuSigned by:  
By: John Shebel  
41CEA9B66CF9490...  
(Signature)

john shebel  
\_\_\_\_\_  
(Print Name & Title)

11/21/2024  
\_\_\_\_\_  
(Date)

Contractor  
**C-Sharpe Company, LLC**

DocuSigned by:  
By: Jimmy Boswell  
B37896F0CB74CD...  
(Signature)

Jimmy Boswell, Manager  
\_\_\_\_\_  
(Print Name & Title)

11/21/2024  
\_\_\_\_\_  
(Date)



## EAST ELEVATION STUCCO REPAIRS

### *Summit*

2024

[csharpe.com](http://csharpe.com)

November 19, 2024

# EXHIBIT A

## Scope of Work – Option 1

1. Remove stucco down to sheathing at balcony to flat-wall edge transition(see following photo for location).
2. Apply new waterproofing and stucco to removed area.
3. Install applicable sealants.
4. Apply a primer and two coats of elastomeric coating at repair areas.
5. This option also includes a general repair allowance of 250 SF for areas that may exceed the work limitations.

## Pricing

We propose to provide all labor, equipment, insurance, and material to perform the above scope of work for the sum of: **\$84,960.00**

### **Pricing Breakdown**

Wall Repairs: **\$77,335.00**

Additional Stucco Repairs: **\$7,625.00**



## EAST ELEVATION STUCCO REPAIRS

### *Summit*

2024

[csharpe.com](http://csharpe.com)

November 19, 2024

## Scope of Work – Option 2

1. Remove stucco & sheathing down to framing at East elevation(see following photo for work location).
2. Install new 5/8” Dens Glass Gold sheathing.
3. Install fluid applied waterproofing to new sheathing with board joints being striped and fastener heads treated.
4. Apply new building paper, lath, and conventional stucco system to the designated East wall surfaces; approx. 4,700 square feet.
5. Remove existing window perimeter sealants, clean and prepare joints, and install new bond breaker and urethane sealants.
6. Install urethane sealants at newly created control joints in stucco system
7. Apply a primer and two coats of elastomeric coating to completed wall surface replacement
8. This option includes an allowance of 250 LF of deteriorated metal framing replacement with new G90 studs.

## Pricing

We propose to provide all labor, equipment, insurance, and material to perform the above scope of work for the sum of: **\$287,632.00**

### **Pricing Breakdown**

Wall Replacement: **\$280,132.00**

Framing Repairs: **\$7,500.00**

# Scope of Work Option 1 — East Elevation End Wall Corner



Work to be performed from ground to top of 14<sup>th</sup> floor



Work to extend from window control joint and wrap corner 1 FT





# Scope of Work Option 2 — East End Wall Stucco Replacement



## **EXHIBIT - B**

### **GENERAL CONDITIONS**

#### **Article 1 General Provisions**

- 1.1 Contract Documents: The “Contract Documents” are set forth in the Agreement Between Owner and Contractor (“Agreement”) and consist of the Agreement, the Scope of Work, these General Conditions, Addenda issued prior to the execution of the Agreement, and any Modifications issued after the execution of the Agreement. A Modification is (1) a written amendment signed by both Contractor and Owner, or (2) a fully executed change order. These General Conditions incorporate by reference the terms defined in the Agreement to the extent such terms are not otherwise defined in these General Conditions.
- 1.2 The Contract Documents may be amended or modified only by a written amendment or change order signed by both parties.
- 1.3 Execution of the Agreement by Contractor is a representation that Contractor has visited and observed the job site and become generally familiar with the local conditions under which Contractor’s Work is to be performed. However, Contractor shall not be responsible or liable for (i) misrepresentations on the part of the Owner or Owner’s Representative as to conditions of the job site, or (ii) hidden/latent conditions not reasonably ascertainable prior to beginning the Contractor’s Work.
- 1.4 Execution of the Agreement by Owner is a representation that Owner has read all terms, conditions, and specifications contained in the Contract Documents, knows and understands what is required of Contractor and Owner, and agrees that the obligations of both parties are specifically as dictated by these documents.
- 1.5 The prices quoted are with the understanding that Contractor will furnish all labor, materials, and equipment necessary to perform all Contractor’s Work in a workman-like manner according to standard practices.
- 1.6 Owner expressly agrees that Contractor may subcontract all or any part of the Contractor’s Work, and authorizes Contractor to subcontract the same.
- 1.7 Contractor and Owner’s Representative agree to cooperate in all respects with each other.

#### **Article 2 Owner Responsibilities**

- 2.1 Owner shall designate in writing where appropriate in the Agreement an Owner’s Representative who shall have express authority to bind Owner with respect to all matters requiring the Owner’s consent, approval, or authorization.
- 2.2 The Owner’s Representative shall determine in general that the Contractor’s Work is being performed in accordance with the Contract Documents, and will endeavor to guard the Owner against defects and deficiencies. The Owner’s Representative shall carry out communications with Contractor (Project Manager), shall sign work vouchers, sign change orders for additional work, approve pay requests and perform the closeout procedures outlined in Article 6 below.
- 2.3 Prior to Contractor’s commencement of the Work, at Contractor’s request, Owner shall provide to Contractor reasonable assurances that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such

assurances. If commencement of the Work is delayed due to Owner's failure to provide such assurances, the time for completion of the Work, if any, shall be adjusted accordingly. After Contractor commences the Work, if Owner fails to provide such assurances within five (5) days of the Contractor's request, the Contractor may immediately stop the Work until Owner has provided such assurances and the time for completion of the Work, if any, shall be adjusted accordingly.

- 2.4 In the event it becomes necessary to enter the building, Owner shall, upon reasonable notification, provide access to Contractor and Contractor's agents, employees, subcontractors, and representatives (the "Contractor's Parties").
- 2.5 Owner shall provide water, electricity and WiFi (when available) for operation of equipment and technology necessary to the job. Use of sanitary facilities shall be negotiated.
- 2.6 Owner shall assign parking spaces to Contractor for vehicles and equipment.
- 2.7 Owner shall be responsible to remove or protect miscellaneous loose objects in the work area, i.e., potted plants, patio furniture, etc. If items are not removed, Contractor shall not be responsible for any damages that might occur.
- 2.8 Owner shall be responsible for cleaning miscellaneous dirt and water spots from windows after the Contractor's Work is completed. Contractor will be responsible to remove only any of its materials that adhere to the glass as a result of Contractor's Work.
- 2.9 Owner shall be responsible for notifying all concerned of the Contractor's Work being performed in order to avoid any injuries or damages to personal belongings. Areas of possible over spray or dripping of material will be marked off and Contractor will erect signs designating such areas as "restricted areas." Owner shall be responsible for enforcement of the restricted areas. Owner specifically agrees that Contractor shall not be responsible for damages or injuries occurring within the restricted areas and agrees to defend, indemnify and hold Contractor and Contractor's Parties harmless against any damages, claims, causes of action, costs (including attorneys' fees) and expenses arising out of or relating to damages or injuries occurring within the restricted areas.
- 2.10 It is Owner's responsibility to perform any trimming or pruning of foliage, which will (or does) interfere with the Contractor's Work. Owner shall be responsible for assessment of potential plant damage resulting from unavoidable exposure to fumes, over spray and/or residue of materials being used and shall protect or replace plants accordingly. Replacement of plants shall be done at Owner's sole cost and expense.
- 2.11 Owner shall be responsible for the removal and replacement of any shutters or other protective devices impeding the Contractor's Work. Owner shall immediately remove such shutters and protective devices upon Contractor's notice of the need for such removal.
- 2.12 In conjunction with terms outlined in Protection of Persons/Property Section 5 (below), Owner shall be responsible for advising residents/tenants/neighbors of potential damage situations that may occur in the normal course of work, such as noise, vibrations or excessive dust. Owner specifically agrees that Contractor is not responsible for any such situations and agrees to defend, indemnify and hold Contractor and Contractor's Parties harmless against any damages, claims, causes of action, costs (including attorneys' fees) and expenses arising out of or relating to damages resulting from the Contractor's Work.



- 2.13 Depending on the nature and extent of the Contractor's Work, all or a portion of the building may need to be vacated from time to time during the performance of the Contractor's Work, which shall be performed at Owner's sole cost and expense. Contractor will coordinate with the Owner's Representative in scheduling the Contractor's Work in such a manner as to minimize the inconvenience to the Owner. However, in the event that the Contractor's Work cannot be performed without all or a portion of the building being vacated, Contractor shall have the right to stop work in the event Owner refuses to vacate as requested.
- 2.14 Because installation specifications for certain applications require that the areas being treated remain undisturbed for specific periods of time and because certain procedures create unsafe conditions, it shall be Owner's responsibility to make such areas available to Contractor for periods required for the safe and successful completion of all work contemplated by the Contract Documents.
- 2.15 In the event of discovery of asbestos materials (or other hazardous materials) incorporated in the construction of the building, it shall be Owner's responsibility, at Owner's sole cost and expense, to determine and execute the necessary action to comply with safety and environmental regulations. During the time period in which Owner is taking required action, Contractor shall not be responsible for progressing any work contemplated by the Contract Documents and shall be entitled to compensation for demobilization and remobilization charges.

**Article 3 Contractor Responsibilities**

- 3.1 Contractor shall perform the Contractor's Work in accordance with the Contract Documents.
- 3.2 Contractor must be duly licensed by the governing body of the jurisdiction in which the facility is located, and obtain all required permits for the Contractor's Work. Failure to obtain proper permits resulting in a fine shall be the responsibility of Contractor.
- 3.3 Contractor shall pay for all labor in performance of the Contractor's Work plus related taxes and insurance required by law or the Contract Documents.
- 3.4 Contractor shall pay sales tax levied on material at the point of purchase. However, should a State Sales and/or Use Tax be levied on the contract amount (set forth in the Agreement) or any portion thereof (unless Owner provides evidence of exemption), said tax shall be added to the final invoice, shall be paid by Owner, and remitted by Contractor to the state agency levying the tax.
- 3.5 Contractor shall endeavor to employ competent superintendents, foremen and workmen.
- 3.6 Contractor shall appoint a Project Manager to supervise and direct the Contractor's Work. The Project Manager shall be solely responsible for all means, methods, techniques, sequences and procedures used in connection with Contractor's Work, and shall coordinate all portions of the Contractor's Work under the Contract Documents.
- 3.7 Contractor shall see that personnel employed on the job site are clothed in identifiable uniforms while working on the premises or entering any part of the facility.
- 3.8 Contractor shall deliver materials to job site in unopened containers and assumes full responsibility for any materials stored on the job site.

3.9 Contractor shall keep the buildings and ground areas reasonably clean. However, Contractor shall not be responsible for the removal, repair or replacement of shutters or other protective devices installed in such a manner as to impede the Contractor’s performance of the Contractor’s Work.

3.10 Contractor shall remove all of its materials, equipment, and debris from the premises within five (5) working days from final inspection by Owner.

**Article 4 Insurance**

4.1 Without limiting any of the other liabilities or obligations of Contractor, Contractor shall furnish to Owner duly executed certificates of insurance, stating that the following types of insurance coverage and limits are in force, and that insurance will not be canceled without ten (10) days prior notice to Owner by the insurance agent:

A. Commercial General Liability:

General Aggregate.....	\$ 2,000,000
Products/Completed Operations Aggregate .....	\$ 2,000,000
Personal & Advertising Injury .....	\$ 1,000,000
Each Occurrence .....	\$ 1,000,000

B. Automobile Liability:

Combined single Limit/each Occurrence:

Bodily Injury/Property Damage .....	\$ 1,000,000
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C. Excess Liability Umbrella:

Each Occurrence .....	\$5,000,000
Aggregate .....	\$5,000,000

D. Workers' Compensation and Employers Liability:

Each Accident .....	\$1,000,000
Disease Each Employee .....	\$1,000,000
Disease Policy Limit.....	\$1,000,000

4.2 Owner’s Insurance:

Owner shall maintain its usual insurance throughout Contractor’s Work on the project. In the event Contractor’s Work is damaged during construction prior to completion of the project through no fault of Contractor (including, without limitation, from events such as fire, flood, wind, vandalism, acts of war, terrorism, or other events beyond Contractor’s control), the Owner shall be responsible for the costs of repairing and/or reconstructing Contractor’s Work, including Contractor’s reasonable overhead and profit. The Owner acknowledges that insurance policies (i.e., “builder’s risk” insurance policies) are available to protect against such risk and may elect to purchase (but is not obligated to purchase) such insurance. If any event not the fault of the Contractor causes damage to the project, Contractor will be paid for any and all work completed, including installed and stored material, which was in place prior to the event. This payment for work will be paid to the Contractor according to the payment schedule outlined in the Contract Documents and will not be delayed in any way even if the Owner is in process of collecting insurance proceeds (if available) for damages to the Contractor’s Work.

4.3 Mutual Waiver of Subrogation: The Owner and Contractor waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and

employees, each of the other, for damages caused by fire, or other causes of loss, but only to the extent covered by property insurance obtained pursuant to this Section or other property insurance applicable to Contractor's Work, except such rights as they have to proceeds of such insurance.

**Article 5 Protection of Persons/Property**

5.1 Contractor shall exercise reasonable care in the handling of carpeting or other floor covering interfering with the performance of the Contractor's Work specified in the Contract Documents. However, Owner shall be solely responsible for any damage due to the age and condition of said materials.

5.2 Contractor shall take reasonable precautions to protect adjacent surfaces, finishes and properties. However, when the Contractor's Work, by its nature, involves activities that may result in potential damage, i.e., vibration of the structure or creation of excessive dust, Contractor shall notify Owner's Representative, in writing, so that residents/tenants/neighbors can be advised to protect their belongings. Contractor shall not be responsible for damages resulting from the normal and unavoidable circumstances of the Contractor's Work.

5.3 Contractor shall take reasonable precautions to protect adjacent surfaces and finishes from damage or staining during application except as outlined in the Owner Responsibilities Article 2.

5.4 Contractor shall be responsible for removing from windows any permanently adhering new material that occurs as a result of the Contractor's Work. Removal of miscellaneous dirt and water spotting shall be the sole responsibility of Owner.

5.5 Contractor shall mark off and erect signs in areas where over spray, dripping, or hazardous conditions may occur. Contractor shall not be responsible or liable for damages to items located or parked within the restricted areas. Contractor shall not be liable for injuries or damages to persons disregarding signs or barriers.

5.6 Contractor shall be responsible for safety administration on the job (including tools, equipment, and work methods) and compliance with all OSHA safety regulations.

**Article 6 Payment and Completion**

6.1 Owner shall pay Contractor in the manner set forth in the Contract Documents. Failure to do so may result in work stoppage and/or interest charges on monies past due. In the event of default in payment of any amounts due under the Contract Documents, Contractor shall be entitled to stop work and pursue all remedies, including legal action. Failure of Owner to timely remit any payment due hereunder shall entitle Contractor to stop work on the project and pursue all remedies, including legal action. In the event that legal action is taken, Owner shall pay all of Contractor's attorney's fees and costs of the litigation.

6.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of (1) materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work; (2) materials and equipment suitably stored off the site at a location agreed upon in writing; (3) materials and equipment (including, without limitation, specially fabricated materials) that require advance payment (in part or in whole) to secure pricing, to begin manufacturing, to deliver, and/or to otherwise place and secure the order for such materials or equipment. For materials and equipment that require advance payment (in part or in whole), Contractor shall, upon written request, provide Owner with information supporting the need for such advance payment.

- 6.3 Unless otherwise agreed in writing, Contractor shall submit monthly progress billings to Owner based upon the Schedule of Values (to be submitted with each monthly invoice) which may from time to time be amended by the written consent of Owner and Contractor, and if applicable, the architect or engineer. The invoices shall be submitted on the 25th day of each month and payment shall be made by Owner no later than the 10th of the following month. Any invoice unpaid by Owner after the 10th of the month shall bear interest at the lesser of 12% per annum or the maximum amount permitted by law.
- 6.4 When Contractor submits progress billings, Owner's Representative shall, within five (5) days, inspect the project to determine that the requested percentage has been acceptably completed. If approved, the progress draw shall be passed on to Owner for payment. If not approved, Contractor shall be advised of additions or corrections required for approval in writing within 15 days of the date the applicable progress billing was submitted. If approved, or if no written notice of additions or corrections is provided within the 15 day period, Owner shall immediately pay Contractor the amount of the progress draw, less the applicable retainage set forth below.
- 6.5 Owner shall notify Contractor in writing within 15 days of receipt of the invoice of any bonafide dispute as to the amounts due under the pay request invoice and shall specify the reasons for such dispute. Owner shall not be entitled to withhold payment of any undisputed amounts. Failure by Owner to submit such written dispute within the required time shall constitute a waiver of such dispute and payment shall be due according to the terms stated herein.
- 6.6 A retainage of 5% is to be withheld by Owner from each progress payment until final completion. Retainage shall be due and payable at the time any punch list work has been completed and approved by Owner and architect/engineer if applicable. All warranties and final lien releases shall be delivered to Owner upon final payment.
- 6.7 Retainage shall not be withheld on items for which the Contractor cannot withhold retainage. Specifically, retainage shall not be withheld on items such as (but not limited to) insurance premiums, bond costs, general conditions, and materials that Contractor cannot withhold retainage on. Those items upon which retainage should not be withheld shall be reviewed with Architect and Owner and shall be identified and isolated within the schedule of values so that they can clearly tracked.
- 6.8 Substantial Completion is the stage in the progress of the work when the work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that Owner can occupy or utilize the work for its intended use.
- 6.9 When Contractor has submitted his pay request for Substantial Completion in accordance with the Contract Documents, the Owner's Representative shall meet with the Project Manager for a walk through. A punch list shall be generated from this walk through. When Contractor has completed the punch list, he shall request a final walk through with the Owner's Representative. If all items contained on the original punch list have been completed, Owner's Representative shall approve the punch list and the approved punch list shall be submitted with Contractor's request for final payment and retainage, along with applicable lien releases and warranties.
- 6.10 The making of a final payment by Owner shall constitute a waiver of all Claims (defined below) by the Owner except those Claims made in writing prior to the making of the final payment in accordance with Article 7.

**Article 7      Claims**

- 7.1      A "Claim" is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, extension of time, and/or other relief arising out of or relating to the terms of the Contract Documents.
- 7.2      Claims must be initiated in writing within 21 days after the occurrence of the event giving rise to the Claim or within 21 days of when the claimant knew or should have known about the condition giving rise to the Claim. Claims not made within the allotted time are waived.

**Article 8      Miscellaneous**

- 8.1      All parties recognize that every building/job site potentially has moisture infiltration issues and, as a result, it is possible that fungi/mold/organic pathogens or other contaminants (airborne and otherwise) may already be present in or about the building/job site and such circumstances are an acknowledged precondition to commencement of the Contractor's Work by the Contractor. By executing the Agreement, the parties acknowledge that Contractor has been retained to perform defined installation and/or repair work on the building or at the job site as defined in the Scope of Work and unless otherwise specified, the Contractor has not guaranteed the detection, removal or eradication of mold/fungi/organic pathogens and other contaminants. Owner shall defend, indemnify and hold Contractor and the Contractor's Parties harmless from and against any and all damages, claims, causes of action, costs (including attorneys' fees) and expenses resulting in anyway whatsoever from the mold/fungi/organic pathogens or other contaminants present at the job site before, during and after the Contractor has completed its work pursuant to the Contract Documents.
- 8.2      Contractor shall not be responsible for any damage caused to the building, job site, nor any damage caused to the materials being used in the performance of the Contractor's Work under the Contract Documents, which is caused by any intervening named tropical storm, hurricane, tornado, fire, earthquake, natural disaster, or any act of God and the Owner agrees to pay for additional work performed by the Contractor to repair the damage caused by such intervening event. Owner shall also agree to reimburse Contractor for the cost of removal of all materials, tools, equipment and personnel from the job site and remobilization to the job site should this become necessary due to such an intervening event.
- 8.3      Contractor shall not be liable for any damage to the building, job site, common facilities, individual units or individual contents, as a result of mold, mildew or other biological contaminants regardless of whether the same was caused by water intrusion, moisture accumulation, the building being unoccupied or any other cause.
- 8.4      Contractor expressly disclaims any liability whatsoever arising from or related to the Owner's analysis of existing conditions of the job site or Owner's property and/or the Owner's recommendations for repair/remediation based upon such analysis.
- 8.5      All parties understand and acknowledge that Contractor is not a materials, engineer, or design professional. Although in some circumstances Contractor may provide assistance in identifying a work scope, Contractor recommends that Owner retain a design professional to identify the final scope of work, and Contractor makes no representations or warranties relating to the suitability of the scope of work under this Contract and disclaims any liability relating to the suitability of the scope of work. Any review by the Contractor of Contractor's Work or scope of work performed by Contractor, and/or the Contract Documents is only for the purpose of facilitating construction by the Contractor, and is not for the purpose of discovering

errors, omissions, or inconsistencies in the Contract Documents or work scope. Any review by the Contractor is made in the Contractor's capacity as a contractor and not as a licensed design professional, and Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. If Contractor fails to comply with an applicable law, statute, ordinance, building code, rule or regulation as a result of deficient plans or specifications or as a result of direction from the Owner, agent or representative of the Owner, or design professional or others acting on behalf of the Owner, Contractor shall not be liable for such non-compliance, and the Owner shall bear all costs resulting from such violation and shall defend, indemnify, and hold Contractor harmless from any damages, claims, and causes of action arising from such violation (including all attorneys' fees and all costs as provided in Section 8.10 herein).

- 8.6 Owner acknowledges the work of this Contract is not a part of the original building construction and Contractor is not liable or responsible for any construction defects that existed prior to Contractor's Work. Due to the existing construction, which (except as expressly indicated) is not being modified, upgraded, or replaced under the work of this Contract (including, without limitation, existing wall-cladding joint dimensions), some new materials (including, without limitation, sealants), may not be installed in complete accordance with manufacturer's recommendations or requirements where such are applicable only to new construction, but shall be installed in accordance with industry standards for the existing structure and scope of work referenced in the Contract Documents. Regarding sealants, in particular, where Contractor is responsible for replacement of sealants, Contractor is not responsible for rebuilding wall-cladding or other building components in which sealants are applied, but is only responsible for removal of the sealant and installation of new sealant in accordance with industry custom and practice for restoration work. In addition, the parties acknowledge and agree that Contractor is not responsible for deep cleaning or the removal of any dust, dirt, or other small debris left on the premises (including, but not limited to, in any owner units) as a result of Contractor's Work.
- 8.7 If applicable, as part of the final payment/project close-out process, Contractor shall provide Owner with a warranty from the manufacturer of new handrail and/or balcony railing system(s) ("Railing Systems"). Notwithstanding any other provision in the Contract Documents, said manufacturer's warranty shall be Owner's sole and exclusive remedy for any defect(s), deficiency(ies), or other problem(s) arising out of or relating to the Railing System(s). Additionally, Owner hereby agrees that Contractor its subcontractors, sub-consultants, and/or other vendors shall not be responsible for any vibration, harmonic, dynamic resonance, humming, and/or other noise-related issues arising out of or relating to the Railing System(s) installed on the Project.
- 8.8 Owner agrees that Contractor shall have reasonable access to electrical power and water on the premises at no expense to Contractor, and that there shall be no interruption of such electrical power and/or water that delays the work or increases the cost to Contractor. In the event of such an interruption, the Contractor shall be compensated in the form of an extension of time and increased site overhead.
- 8.9 Except as expressly specified in the Contract Documents, the contract price does not include the repair of any conditions that are unknown to Contractor as of the date of the Agreement's execution. Contractor shall receive additional compensation for remediation of such unknown conditions in excess of any anticipated quantities set forth in the Contract Documents. It is also expressly understood by the Owner that, given the Owner's interest in completion of Contractor's Work as quickly as practicable, the Owner, either itself or through its engineer or architect, shall give



prompt approval of and direction relating to additional work that may be needed as a result of the discovery of such conditions. Owner acknowledges and agrees that if Contractor is delayed as a result of the discovery of unknown conditions or other events outside Contractor's control, Contractor shall be entitled to an extension of time, additional compensation, and an additive Change Order for Contractor's job site overhead costs during the delay for delays that are attributable to the Owner, until the delay in Contractor's progress is resolved by the Owner.

- 8.10 Owner expressly waives any claim for punitive damages and consequential damages arising out of or relating to the Contract Documents and the Contractor's Work contemplated by the Contract Documents, including, without limitation, damages for loss of use, lost income, lost profit, rental expenses, the cost of financing, business interruption, and/or damage to reputation.
- 8.11 In the event of any Claims or litigation arising out of the Contract Documents, the prevailing party shall be entitled to recover from the other all costs and expenses, including attorney fees expert fees, and costs, whether from pretrial, trial, collection or appellate proceedings.
- 8.12 The Contract Documents shall be governed by and construed in accordance with the laws of the State of Florida. Any lawsuit arising out of the Contract Documents or the transactions contemplated herein shall be filed and litigated in a state or federal court having jurisdiction over Bay County, Florida, and each party submits to the personal jurisdiction of all such courts.
- 8.13 Owner represents and declares that they have carefully read the Contract Documents, that they know and fully understand all contents of the Contract Documents, and that they have signed the Agreement freely and voluntarily.
- 8.14 The Contract Documents embody the entire agreement of the parties relating to the subject matter hereof. No amendment or modification shall be valid or binding upon Contractor unless made in writing and signed by Contractor. All prior understandings and agreements relating to the subject matter hereof are hereby expressly terminated.
- 8.15 If any term, provision, condition, or covenant contained in the Contract Documents shall, to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract Documents (or the application of such term, provision, or condition to persons or circumstances other than those in respect of which it is held invalid or unenforceable) shall not be affected thereby, and each and every other term, provision and condition of the Contract Documents shall remain in full force and effect.
- 8.16 This Contract Documents shall be binding upon the executors, administrators, personal representatives, heirs, successors, and assigns of the parties hereto.
- 8.17 As used in the Contract Documents, the neuter gender shall include masculine and feminine, the masculine and feminine genders shall be interchangeable and include the neuter gender, the singular number shall include the plural, and the plural the singular.
- 8.18 The captions of the sections and paragraphs of the Contract Documents are for convenience only and shall not be considered or referred to in resolving questions of interpretation or condition.
- 8.19 The person/officer executing the Agreement on behalf of Owner represents and warrants that he or she is authorized to execute the Agreement on behalf Owner and

to bind Owner as to all of the terms and conditions of the Contract Documents, and that Owner has consented to, approved of, and authorized the Contract Documents in all respects.

- 8.20 At any time prior to and/or during the course of the project, Contractor may request that the Owner supply reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Upon receipt of that request, the Owner shall, within 7 days or such other time as is agreed to in writing by the parties, supply such evidence. The Contractor shall have no obligation to commence and/or continue the Work until the Owner provides such evidence, and the Contract Time (if a Contract Time applies) shall be extended appropriately while Contractor is awaiting such reasonable evidence. After the Owner furnishes such evidence of financial arrangements, the Owner shall not materially vary such financial arrangements without prior written notice to the Contractor. If the Owner fails, within 7 days or such other time as is agreed to in writing by the parties, to provide satisfactory evidence of its ability to fulfill the Owner's obligations under the Contract, Contractor shall have the right to suspend and/or terminate the Contract for cause.
- 8.21 If applicable, Contractor shall notify Owner's Representative when Contractor has completed work to the interior and/or balcony of individual units. Upon receipt of such notice, Owner's Representative shall have 30 days to confer with the unit owner and Owner's Representative shall confirm in writing to Contractor that Contractor's Work relating to each such unit is in substantial conformance with Contractor's mock-up(s) of such work or identify any punch list items. If Owner's Representative does not identify any punch list items within the 30-day period, Contractor shall have no obligation to complete any such punch list items. Further, if Owner's Representative does not identify any punch list items within the 30-day period, Owner shall defend and indemnify Contractor from and against any claims of individual unit owners relating to any alleged punch list items.

## **Article 9 Warranty**

- 9.1 Contractor's One-Year Warranty: Contractor warrants its work on the terms set forth in this paragraph for one year from the date of Substantial Completion. Contractor warrants to the Owner that the materials used and equipment furnished will be new and of good quality, unless the Contract expressly requires or allows something different or the parties otherwise agree. Contractor further warrants that the Work will be free from material defects not intrinsic in the design. Contractor makes no other warranties, express or implied. Contractor's warranty excludes liability for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Work was not intended, improper operation, improper or insufficient maintenance, modifications performed by the Owner or others, settling, acts of God (e.g., tropical storms, hurricanes, tornado, flood, fire, etc.), and vandalism or abuse. Pre-existing latent defects are not covered by any warranty from Contractor if repair of the defects is not expressly within (or added to) the Scope of Work. Liability under this warranty shall not include any punitive damages, or implied, contingent, consequential, or resultant damages of any nature. Liability shall be limited to an amount not to exceed the portion of the original contract value for the work performed at the area of defective workmanship. The warranty is not transferable or assignable without the written consent of Contractor. Owner's sole and exclusive remedy for any claims alleged to arise out of defects in workmanship or materials shall be pursuant to the warranties provided in this Article 9. If within one year after the date of substantial completion any portion of Contractor's work is discovered to be defective, the Owner, as a condition precedent to establishing a warranty claim, shall notify the Contractor in writing prior to the expiration of this warranty.

9.2 Manufacturer / Product Warranties, Subcontractor Warranties (if applicable): If any manufacturer / product or subcontractor warranties are required by the Contract, Contractor's sole responsibility is to cause said warranties to be issued and delivered to Owner. Contractor is not in any way liable to Owner under any manufacturer / product or subcontractor warranties that are required by the Contract or are otherwise offered or issued by any manufacturer, product, or subcontractor. Notwithstanding any language to the contrary, if any such warranties are issued, Owner acknowledges that some such warranties may begin to run prior to the date of substantial completion (e.g., upon date of delivery of materials), and any contract requirement that specifies a different date for commencement of such warranties is amended to reflect that the particular manufacturer's / subcontractor's standard warranty policies, including policies that govern when warranties are to commence, will control.

**Article 10 Disclaimer**

10.1 The proposal set forth herein was prepared by Contractor utilizing initial inspections of the Owner's property, building, and job site, and based upon the Owner's representations and Contractor's experience in the industry and work on similar projects. Although Contractor may engage engineers and architects, the Proposal is not and should not be considered an "engineer's report" or an "architect's report." Owner has been advised and encouraged to obtain the services of a licensed engineer or a licensed architect to verify the condition of the job site or Owner's property and the recommendations contained in this proposal. Further, while Contractor may have performed limited tests on materials that are a part of the job site or Owner's property, Owner is hereby advised that additional detailed testing that may not have been used by Contractor could indicate or may warrant different recommendations.