Contract 001-001

ETHAN CONSTRUCTION, L.L.C.
3100 AIRPORT WAY SOUTH
SEATTLE, WASHINGTON 98134

SUBCONTRACT

THIS SUBCONTRACT is made and entered this **13** day of July, 2005 by and between the Parties, who are------ **Snyder Roofing,** an independent contractor (hereinafter called the "Subcontractor"), and **ETHAN CONSTRUCTION L.L.C.**, a Washington limited liability company (hereinafter called "Contractor").

1. **Contract Documents**

The Contract Documents which make up the entirety of the contract between Subcontractor and Contractor consist of this Subcontract, all Drawings, Specifications, and Addenda as listed in attached Exhibit "A", and issued prior to the execution of this Subcontract, and all other documents specifically listed in this Subcontract and mutually agreed modifications to those Documents issued after the date of this Subcontract. These form the contract between Subcontractor and Contractor, and are as full a part of this Subcontract as if attached hereto. This Subcontract combined with said Contract Documents represents the entire and integrated agreement between Subcontractor and Contractor and supersedes prior negotiations, representations or agreements, whether written or oral.

2. **Price**

The total Subcontract Price is **As per the exhibit, subject to change orders** payable as hereinafter stated. **Washington State Sales tax (to be added to the price)**, if any, will be paid by Contractor in addition to the above Price, but only if and to the extent billed to Contractor by Subcontractor at the time of submission of each Request for Payment pursuant to paragraph 22 below.

3. **The Work**

In consideration for the Price, Subcontractor agrees to furnish all supervision, labor, and materials to complete in a workmanlike manner, in accordance with the Contract Documents, and the work as described in Exhibit "A". All of the aforesaid constitute "the Work" as referred to herein, and shall be for improvements upon the property located at **3100 Airport Way South, Seattle WA, 98134**, which is hereinafter referred to as "the Premises."

4. **Subcontractor's License and Bond**

Subcontractor is licensed and bonded in the State of Washington, with Contractor's License No. _____, and Federal Tax Identification No. _____, and State of Washington Tax No. _____. If at any time Subcontractor ceases for any reason to be so registered or bonded, or if Subcontractor's bond should be or become impaired for any reason, Subcontractor agrees immediately to notify Contractor in writing of such change.

5. **Commencement and Substantial Completion of the Work/Notice of Delay**

b. Subcontractor agrees to commence the Work not later than five (5) calendar days from the date on which Contractor gives written or oral Notice to Proceed, and Subcontractor agrees to perform the Work diligently to completion and to achieve Substantial Completion of all of the Work as per the attached Schedule (Exhibit "C"), which Subcontractor agrees to follow (or as modified by mutual agreement reached at any time following execution of this Subcontract). The Contractor may make reasonable adjustments to such schedule after consulting with the Subcontractor. The Parties further agree that, in light of the needs of Contractor and other work to be provided on the Premises, time is of the essence hereof, and Subcontractor agrees to reimburse Contractor for any additional costs or losses incurred by Contractor as a result of Subcontractor's failure to perform and complete the Work in a timely manner in accordance with the Schedule, except to the extent such failure is caused by Contractor, any other subcontractor, or by *force majeure.*

b. As used herein and elsewhere in this subcontract, the term "Substantial Completion" means that point at which Subcontractor

has performed all of the actions necessary to construct and/or install all of the improvements and materials described on Exhibit B hereto, when all tests and inspections required thereof (if any) have been completed satisfactorily to demonstrate conformance to the Contract Documents, and when, in the opinion of the Contractor after consultation with the Project Manager, the same are ready for and/or being used for the purpose intended, and when Subcontractor has removed all debris, scraps, excess and unused materials, tools, equipment, temporary structures and facilities, and all other matters brought to the project by Subcontractor for the Work (except to the extent the same are to remain for use by others).

c. If Subcontractor is delayed either in the commencement or in at any time in its progress toward achieving timely Substantial Completion of the Work as a result of any action or inaction on the part of Contractor or on the part of any other subcontractor or person contracted with or employed by the Contractor, then Subcontractor will promptly notify Contractor in writing of such delay and of the specific action or inaction causing such delay, and such notification shall be with sufficient detail and promptness to allow Contractor the opportunity promptly to address or remedy any circumstance which may be causing such delay and/or to assure that, to the extent such delay is caused by the actions or inactions of others, that Contractor's rights of recourse thereto shall be preserved. If delay has been caused by Contractor or its employees, agents, or other person or entity with whom Contractor has contracted other than Subcontractor, then Contractor will allow an extension of the time for completion of the Work set forth in this paragraph. The amount of time extension shall be communicated in writing by Contractor to Subcontractor. If Subcontractor does not agree with the length of the extension so stated, such disagreement shall be communicated in writing to Contractor, and if the Parties are unable to agree, Subcontractor will nevertheless proceed with the Work, without delay on account of any such disagreement, and the resolution of the appropriate amount of time extension shall, if necessary, be resolved after completion of the Work in accordance with the Disputes provision of this Subcontract.

6. Compliance with Law

Subcontractor agrees to comply with all laws, statutes, ordinances, rules and regulations, applicable in any way to the Work and shall not commit nor knowingly allow the commitment by itself or any of its employees, agents, suppliers, lower-tier subcontractors or others, of any act on the Premises or connected with the Work, which is in violation of any applicable law.

7. Maintenance of Insurance

Subcontractor shall obtain and keep in force during the term of this Subcontract, comprehensive public liability and property damage insurance, with **an insurer reasonably satisfactory to Contractor**, naming Contractor as an additional insured there under, with policy limits of at least **$ 3,000,000.00 per claim.** Subcontractor agrees, prior to the commencement of the Work and at such other times as reasonably requested by Contractor, to provide Contractor with proof to the satisfaction of Contractor of the existence of such insurance coverage, which proof shall include a Certificate of Insurance **signed by the insurance carrier**, which Certificate acknowledges the Contractor as an Additional Insured, and further certifies that said coverage will not be canceled or reduced without written notification thereof to Contractor during the term of performance of the Work under this Subcontract. Subcontractor will also maintain in force at all times during the performance of the Work all Employer's Liability and Worker's Compensation insurance, as required by the State of Washington, and shall provide proof to Contractor of the existence of such coverage. The subcontractor shall be responsible for any deductibles incurred for any damage or claim caused as a result of the Subcontractor's acts, omissions or negligence.

8. Subcontractor as Employer

Subcontractor has the status of an employer, as defined by the Industrial Insurance, Worker's Compensation, Unemployment Compensation, Social Security, and other similar laws and acts of the United States, State of Washington, and local jurisdictions. Subcontractor agrees to withhold from its payroll the applicable Social Security taxes, Worker's Compensation and Unemployment Compensation contributions and withholding taxes applicable to all of its employees and all persons employed or contracted by it to provide labor for performance of the Work under this Subcontract, and Subcontractor agrees to pay the same and further agrees that Contractor shall in no way be liable as an employer to or on the account of any of the employees or independent contractors hired or contracted by Subcontractor. Prior to final payment under this Subcontract, Subcontractor shall furnish evidence to the Contractor that Subcontractor has conformed to all of said laws and their applicable rules and regulations, and Subcontractor further hereby agrees to indemnify Contractor for any and all liability arising under such laws relating to the work performed under this Subcontract.

9. Permits, Taxes, Compliance with Codes

Except as otherwise agreed in writing or as otherwise stated in the Contract Documents, Subcontractor shall secure and pay for all permits, fees and licenses necessary for the performance of the Work and shall pay any and all federal, state and municipal taxes, including sales taxes, if any, for which Subcontractor may be liable in carrying out the Work. Subcontractor further agrees that it shall comply with all laws, ordinances, regulations, and any building codes applicable, bearing on his work and the conduct thereof, as required by the statutes of the United States Government, the State and any local municipality in which the Work is performed, including all codes, rules, and regulations pertaining to erosion control; control, handling, exclusion, and/or disposal of hazardous materials; job-site safety; employee right-to-know requirements; and all other applicable requirements pertaining to the conduct of performance and the finished product.

10. Materials and Equipment

Materials delivered by or for the Subcontractor and intended to be incorporated into the Work hereunder shall remain on the job site and shall become the property of the Owner upon payment therefor. Subcontractor may repossess itself of any surplus remaining following the substantial completion of this Subcontract. All scaffolding, apparatus, works, equipment, and machinery brought onto the Premises by Subcontractor shall remain Subcontractor's property, and Subcontractor retains risk of loss thereof or injury thereto and shall maintain its own property and casualty insurance coverage with respect thereto. It shall be the Subcontractor's responsibility to unload, store, and use reasonable means to protect its materials, equipment, machinery, tools, and work-in-process, and Subcontractor shall bear the risk of loss thereof and shall protect such materials, equipment, and work-in-process against loss until actually incorporated into the Work and until the Work is accepted, even though title thereto may previously have passed to the Owner.

11. Payment for Materials and Labor/Avoidance of Liens

Subcontractor shall pay for all labor, materials and equipment furnished by or through it under this Subcontract and shall save Contractor and the Premises harmless from all claims, suits and liens therefore.

12. Change Orders

Contractor may, without invalidating this Subcontract, order in writing extra work, or may make changes altering, adding to, or deducting from the Work, and the Price shall be adjusted as agreed by the Parties. All such added or modified work shall be executed under the terms and conditions of this Subcontract. Subcontractor shall make no claim for extra cost unless such extra cost has been agreed upon in written Change Order signed by Contractor prior to the performance of any such additional work. In the case of any dispute over the adjustment of the Price, Subcontractor agrees to proceed diligently with the work and with any changes or additions thereto, and the dispute shall be resolved in accordance with the Disputes provisions of this Subcontract. Subcontractor agrees that it shall not in any event delay or **refuse to perform** work as modified by any Change Order signed by Contractor, whether said modification shall add to or delete from the Work, and in the event of any dispute between Contractor and Subcontractor under this Subcontract, it is agreed that the existence of such dispute shall not be a cause for Subcontractor to delay or terminate its performance of this Subcontract, all such disputes to be reserved and resolved pursuant to the Disputes Provisions in this Subcontract.

13. Nature of Work

Subcontractor has satisfied itself as to the nature and location of the Work, the character, quantity and kind of materials to be encountered, the character, kind and quality of equipment needed during the prosecution of the Work, the location, conditions and other matters which **are** likely to affect the Work under this Subcontract, and acknowledges that Subcontractor has had a reasonable opportunity to inspect and examine the site to its satisfaction and all of the Contract Documents, and that Subcontractor is prepared and capable of performing the Work pursuant to and upon said conditions for the Price stated herein.

14. Job Damage

Job damage caused by Subcontractor or any of its employees, agents, vendors or other persons contracted with Subcontractor,

including, but not limited to, damage to the Premises, to the Work, to work performed by other contractors and subcontractors, or in any other way affecting the property of the Contractor, or any other person owning or providing property on the Premises, shall be reported immediately by Subcontractor to Contractor, and Subcontractor shall be responsible for its repair and for the cost thereof. Job damage caused by Contractor or by any person employed by Contractor or with whom Contractor has contracted, to the Work, the equipment, or property of the Subcontractor, shall be reported immediately by Subcontractor to Contractor and, providing such damage has been reported immediately or as soon as practicable, Contractor shall be responsible for its repair.

15. Indemnity

To the fullest extent permitted by law, the subcontractor shall indemnify, defend and hold harmless the owner, contractor, architect, architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the subcontractor's work under this subcontract, provided that any such claim, damages, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), but only to the extent caused by the negligent **or willful** acts or omissions of the subcontractor, the subcontractor's sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity, which would otherwise exist as to a party or person described in this paragraph 15. *Provided,* Subcontractor's duty to indemnify and hold harmless hereunder shall apply only to the extent of the negligence or willful acts or omissions of Subcontractor or the aforesaid persons for whom Subcontractor may be liable.

In claims against any person or entity indemnified under this paragraph 15 by an employee of the subcontractor, the subcontractor's sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under the above paragraph shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the subcontractor or the subcontractor's sub-subcontractors under workers' compensation acts, disability benefit acts or other employee benefit acts, including, but not limited to, Subcontractor's or such other employer's immunity under industrial insurance, Title 51, Revised Code of Washington.

THE PARTIES CERTIFY THAT THIS ENTIRE SUBCONTRACT, INCLUDING THE FOREGOING PARAGRAPH 15, HAS BEEN MUTUALLY NEGOTIATED BETWEEN THEM.

(Initials) EA _____

16. Removal and Control of Waste and Debris

Subcontractor agrees to remove promptly from the site as work progresses and upon completion, all rubbish and waste, or to reimburse Contractor for so doing. Refuse or surplus materials shall not be permitted to accumulate in amounts which interfere with free access to, or safety of the work site or otherwise interfere with the access to or use of the existing Hotel facility.

17. Warranty

Subcontractor warrants and guarantees all work and materials provided under this Subcontract, and will make good, at its own expense, all defects in materials or workmanship which exist as of the date of Substantial Completion or which occur or develop within one year (or as otherwise specified in the documents) after the date of Substantial Completion of the Work. Any action thereon shall be brought within three (3) years after the date of discovery of such defect.

If Subcontractor fails to correct such defect expeditiously upon demand by Contractor, Contractor shall have the right to proceed at its own expense and using such materials, contractors and other resources as it deems appropriate to cure the defect and all problems caused thereby. The Subcontractor shall in such event pay to the Contractor the costs and expenses incurred by the Contractor in making good such failure, and, to the extent any funds may still be due from Contractor to Subcontractor,

Contractor may withhold therefrom any such costs and expenses so incurred by Contractor, without prejudice to Contractor's right to be reimbursed in full if its costs incurred due to Subcontractor's failure to correct defects exceed the amount so withheld.

18. Termination and Take-Over of Work

a. Contractor's Right to Terminate the Subcontract:

Contractor, without prejudice to any other right or remedy, may terminate this Subcontract upon giving five (5) working days written notice to Subcontractor if:

1. Subcontractor fails, after reasonable notice from Contractor, to supply sufficient, properly-trained workers, supervision, or materials to perform the Work in accordance with the conditions of this Subcontract; or
2. Subcontractor does not pay promptly its employees, equipment or material suppliers, Sub-subcontractors, or others who may thereby have a claim or lien rights against the Property, the Work or Contractor; or
3. Subcontractor repeatedly or substantially breaches one or more provisions of this Subcontract; or
4. If Subcontractor's obligation under this Contract includes the duty to supply, install and/or deliver goods, materials or products to the Project (i.e., fixtures; plumbing, HVAC, electrical, or communications equipment or the like; doors; walls; lighting; carpets or flooring; cabinets; roofing or structural materials; etc.), and if Subcontractor fails to supply, install or deliver the same in the amounts and within the time referred to in Paragraph 5 hereof or as provided for in the Schedule attached hereto and referenced in Paragraph 5 hereof, or supplies, installs or delivers the same in a defective condition; or
5. Subcontractor's contractor registration bond becomes impaired, is canceled or lapses and is not renewed; or
6. ***Subcontractor fails, without legal excuse, to make sufficient progress in the work in accordance with the attached Schedule as listed in paragraph 5.***

On such termination, Contractor may proceed to perform Subcontractor's work by whatever method Contractor deems reasonable, necessary and expedient, and all costs so incurred by Contractor shall be charged back and offset against the Price and against any retained funds then held by Contractor, and if said costs exceed the unpaid balance remaining due Subcontractor, then Subcontractor shall promptly pay such excess amounts to Contractor. Contractor's completion of the Work pursuant to this provision shall not void, limit or otherwise affect Subcontractor's warranty obligations or any other obligations of Subcontractor hereunder.

b. Subcontractor's Right to Terminate the Subcontract:

Subcontractor, without prejudice to any other right or remedy, may terminate this Subcontract upon giving five (5) working days written notice to Contractor if:

1. Contractor unreasonably interferes with Subcontractor's access to the Work or with Subcontractor's ability to perform the Work, and if such interference is not ceased within five (5) working days after the date on which Subcontractor gives written notice to Contractor of such interference; or
2. Contractor has failed to pay Subcontractor within seven (7) working days after the date upon payment is due in accordance with this Subcontract.

On such termination, Subcontractor may stop work and/or terminate this Subcontract and recover payment from the Contractor for all amounts properly due and payable and any loss sustained from plant and material.

c. Contractor's right to immediate termination of contract without advance notice: In addition to the foregoing, and without prejudice to any other right or remedy available to Contractor at law or in equity or hereunder, Contractor may terminate this Subcontract immediately and order Subcontractor to cease work immediately, without advance notice, upon the occurrence of any of the following:

1. Subcontractor fails to have or keep in place the liability and property and casualty insurance required hereunder; or
2. Subcontractor's license and/or registration with the State of Washington as required by RCW Ch. 18.27 lapses, is canceled or is no longer in effect, or Contractor learns that Subcontractor is not properly licensed and registered as required by the State of Washington; or

3. Subcontractor engages in any activity with respect to the Work or the Premises which amounts to a gross misdemeanor or felony under Washington state, or federal law; or
4. Subcontractor or any of its employees or agents engages in or fails or refuses immediately to cease any acts or omissions which present an immediate risk of bodily injury or property damage to any person, contractor, supplier or other involved in the Work or the Premises (other than the risks normally associated with and inherent in the nature of the construction work being undertaken as part of the Work by Subcontractor); or
5. Subcontractor or any of its employees or agents engages in or knowingly permits any act or omission that amounts to a substantial and unexcused breach of this Subcontract which will result in irreparable loss or injury the Work, the Premises or any person or entity providing labor, materials, equipment or services with respect thereto.

19. Non-Assignability

Subcontract may not assign any portion of this Subcontract in excess of $25,000.00 to any other person(s) or contractor(s) without the approval of Contractor, which approval may not be **unreasonably** withheld. Contractor has chosen to contract with Subcontractor for the Work, and is not obligated expressly or by implication to permit Subcontractor to assign or sub-subcontract any portion of the Work hereunder. Subcontractor may not assign to any other person or entity the right to receive any portion of the Price or of any other proceeds, monetary benefit, or amounts due hereunder, without the advance written consent of the Contractor. Contractor's honoring of any assignment in any given instance without insisting upon strict conformance with this provision shall not constitute a waiver of the right to insist upon strict conformance with this provision in any other instance.

In the event Subcontractor does contract with, employ, or retain any sub-tier subcontractor, supplier, material man, or other independent contractor to provide any labor, material, equipment, or other service or material necessary for the performance of the Work under this Subcontract (with or without Contractor's approval), Subcontractor agrees that all such entities or persons shall be bound by the terms of this Subcontract, whether or not signatories hereto. It shall be the responsibility of Subcontractor to assure that all such other entities or persons have knowledge of the terms hereof and comply with this Subcontract, and any failure of any such person to comply with the terms of this Subcontract shall be the sole responsibility of Subcontractor. No assignment of this Subcontract, in whole or in part, or of any part of the Work hereunder, shall in any event relieve Subcontractor of its duties to perform and comply with all of the terms hereof, including, but not limited to warranties.

20. Adherence to Work Rules/No Animals, Radios on Site

Contractor and Subcontractor agree that Subcontractor shall have complete control of its employees and as to the method and manner of performing the Work in conformance with the Contract Documents. Subcontractor shall have complete control of its forces and equipment and of the immediate areas affected by its performance of the Work during the times in which it is present on the Premises for purposes of performing this Subcontract. However, Subcontractor shall assure that, at all times, it shall assure its employees' conformance with such Work Rules as from time to time may be established and published by Contractor for the conduct of employees on the job site. Such rules shall not affect the method or manner of performing the Work. Among such rules, Subcontractor agrees that it shall not allow its employees, vendors, suppliers, sub-tier contractors, or other persons coming onto the Premises in connection with any work to be provided by Subcontractor under this Subcontract to bring onto the Premises any radios or animals.

21. Terms of Payment

Contractor agrees to pay Progress Payments to Subcontractor based upon the percentage of completion of the Work, in response to written Requests for Payment received from Subcontractor, less ten percent (10%) of all amounts due to Subcontractor for progress payments ("retainage"), which retainage shall be retained to assure Subcontractor's payment of all amounts obligated to be paid hereunder.

Monthly progress payments shall be made to the Subcontractor at the end of the month following the month in which the work was performed. The retainage shall be released to Subcontractor on or before thirty (30) days following the date on which the Work is completed in accordance with the Contract Documents. Subcontractor shall provide Contractor with signed lien releases from all material suppliers and others from whom Contractor requests releases, as a condition of and prior to Contractor's making any Progress Payments hereunder. As a further condition of any payment, Subcontractor, if so requested by Contractor, shall submit evidence **reasonably satisfactory to Contractor** that all payrolls, material bills and other indebtedness connected with the Work have been paid.

22. Invoices

Subcontractor shall submit Requests for Payment, together with any required supporting documentation, to Contractor by the last day of each month for approval and due processing, which Requests shall be for the value of the Work performed by the Subcontractor through the date of such submission. On or before the 15th of the following month, Contractor shall notify Subcontractor of any disagreement or disallowance by Contractor of the amount requested or of the value of Work claimed to have been completed in the Request. Subcontractor shall have the right to correct, supplement or otherwise defend Subcontractor's submission within five (5) days after receipt of such notice from Contractor. Subcontractor and Contractor agree that the amount due shall in any event be that amount which is allowed by the appointed inspector or representative of any lender supplying the funds for such payments, and if the lender directs a different timing or procedure for submission of Requests for Payment and payment thereon, Contractor and Subcontractor hereby agree such lender-required procedure shall control and apply in lieu of the provisions stated in this paragraph. Payment of the amount herein determined to be due, less retainage, shall be made on or before the final day of said month. If any of the foregoing days shall occur on a weekend or holiday, the deadline for such event shall be the first business day thereafter.

If the Contractor fails to make payments to the Subcontractor as they become due under the terms of this Subcontract or in an award by arbitration or court, interest on the amount so due at the rate of 2% per annum above the prime rate published by the Bank of America, Seattle, shall also become due and payable until payment. Such interest shall be calculated and added to any unpaid amounts monthly. It is agreed that no payment under this Subcontract shall operate as an approval of said Work or materials or any part thereof, nor construed as a waiver of any provisions of this contract.

23. Modifications

No modification of this Subcontract and no waiver of rights under this Subcontract shall be valid or binding on the parties unless the same shall be in writing. Failure of the Contractor or Subcontractor to insist upon performance of this Subcontract, or to exercise any option herein conferred upon it in any one or more instances, shall not be construed to be a waiver of any such, or any other covenant or agreement, and this Subcontract shall remain in full force and effect. No amendment, modification, deviation, or alteration of the terms of this Subcontract shall be valid, binding, or of any force or effect, unless the same shall be confirmed in writing, signed by Contractor and Subcontractor, and expressly stating that the same constitutes an amendment or alteration of the terms of this Subcontract.

24. Disputes

Any dispute arising out of or relating to this Subcontract or any action for interpretation, enforcement or breach of this Subcontract, shall be determined exclusively by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in the Superior Court of the State of Washington for King County, to which jurisdiction the Parties hereby consent. In the event of arbitration, the party who in the opinion of the arbitrator(s) has substantially prevailed shall, in addition to any other relief granted, be entitled to recover that portion of its attorney fees determined by the arbitrator(s) to have been reasonably and necessarily incurred for this action, which may or may not be the full amount of the attorney's fees and costs actually incurred by the party. As to the reasonableness and necessity of such fees and costs, the arbitrator(s) may, but need not necessarily, take into account the amount of fees incurred, the amount in issue, the reasonableness of the rates charged by the attorneys for that party, the relevance and utility of any evidence or testimony for which that party incurred a cost (including the relevance and utility of expert testimony, discovery taken, etc.), and the reasonableness of the respective positions taken by the parties with respect to the matter(s) in issue. Responsibility for the arbitrator(s)' charges shall also be allocated by the arbitrator(s) as part of the final award.

Notwithstanding the parties' agreement to arbitrate all matters, any party under this Subcontract may apply to the Superior Court of the State of Washington for King County for a temporary restraining order and/or preliminary injunction in the event that such relief is warranted, and the existence of this arbitration provision shall not constitute a bar against the right of any party to seek injunctive relief in a case where such relief is otherwise shown to be applicable or warranted.

25. Applicable Law

This Subcontract shall be construed in accordance with the laws of the State of Washington.

27. **Safety Program**

In the performance of this Agreement, the Subcontractor shall comply with all federal, state and local laws governing safety health, sanitation and environmental, as well as the Contractor's Safety Plan which is incorporated herein and made a part of this Agreement.

m. Subcontractor's Duty to Protect. The Subcontractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss caused by this Subcontractor, its employees or sub-subcontractors to:

.1 employees on the Work and other persons who may be affected thereby;

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site, under care, custody or control of the Subcontractor or its subcontractors of any tier;

.3 other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and

.4 construction or operations by the Contractor or other Subcontractors.

n. Compliance with Notices and Laws. The Subcontractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on health, sanitation and environmental issues as well as the safety of persons or property or their protection from damage, injury or loss. It is a condition of this Subcontract that the Subcontractor and any of its subtier subcontractors shall not require any employees under the performance of this Agreement to work in, surrounding, or under working conditions which are unsanitary, hazardous or dangerous to health or safety, as determined under construction safety and health standards.

o. Safety Precautions. The Subcontractor shall erect and maintain, as required by existing conditions and performance of this Subcontract, reasonable safeguards for safety and protection, including, but not limited to, posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities. Any damage to such property or improvements caused by Subcontractor or its sub-subcontractors or any employee or agent thereof shall be promptly repaired by the Subcontractor at its expense and at no expense to Contractor and without prejudice to the Work Schedule. Subcontractor will have sole responsibility to insure the adequacy and inspection of all personal protective equipment used by Subcontractor's personnel.

p. Use of Explosives or Hazardous Materials. When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Subcontractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary, the Subcontractor shall secure Contractor's approval prior to their storage or use. Subcontractor shall submit to Contractor's project office an MSDS for all chemicals or hazardous materials to be used on the project before they are delivered to the Jobsite. Subcontractor shall also maintain a permanent file of MSDS data sheets and employee training documentation and shall make such information available to those on the Jobsite.

q. Subcontractor Liability. The Subcontractor shall promptly remedy damage and loss to any property caused in whole or in part by the Subcontractor or its subcontractors of any tier or by anyone for whose acts they may be liable.

r. Safety Representative. The Subcontractor shall designate a responsible member of the Subcontractor's organization at the Site whose duty shall be the prevention of accidents. This person shall be the Subcontractor's superintendent unless otherwise designated by the Subcontractor in writing to the Contractor. This person shall attend all safety meetings conducted by the Contractor and shall conduct regular safety meetings for employees of the Subcontractor and its subcontractors of any tier engaged in construction activities at the Site.

s. Loading Precautions. The Subcontractor shall not load or permit to be loaded any part of the Project including the structure or the Site in such a way as to cause damage to or endanger the Project or any persons or entities at the Site during or after completion of the Work.

t. Accident Reports. The Subcontractor shall immediately report in writing to the Contractor all accidents arising out of or in connection with the Work which cause death, personal injury or damage, giving full details and statements of any witnesses, with a written report to follow within 24 hours of occurrence. In addition, if death or serious personal injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Contractor.

u. Safety Cooperation. The Subcontractor and its subcontractors of any tier shall cooperate fully with the Contractor, the Owner, and all interested parties on accident prevention and claim handling procedures. All Subcontractor personnel will be required to attend any mass safety meetings called by the Contractor. These may be held as often as once per week. Subcontractor shall submit to the Contractor, within 30 days of receipt of the written Notice to Proceed, or at such other time as Contractor may require, a project site specific safety program prior to starting field operations, including a hazard communication program and fall protection program.

v. Risk of Loss. Subcontractor shall be responsible for the protection of all of its tools, equipment, materials, and other property, notwithstanding any security measures for the Site provided by the Owner or the Contractor.

w. Emergencies. In an emergency affecting the safety of persons or property, the Subcontractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss.

x. Drug Free Workplace and No-Smoking Rules. It is the Contractor's desire to make this job a drug-free workplace. The Subcontractor will take all necessary steps to assure its work force is drug-free, including testing of its employees, as deemed necessary by the Subcontractor. All Subcontractor personnel shall adhere to a no smoking policy within the enclosed building and construction areas. A designated smoking area will be provided.

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract as of the day and year first above written.

CONTRACTOR ETHAN CONSTRUCTION, L.L.C, a Washington limited liability company	**SUB-CONTRACTOR**
By:	By:
Name: Ethan Aken	Name:
Date: 7 19 2008	Date:

[The parties further acknowledge their agreement with and their initialing of the provisions contained in paragraph 15 on page 4 above.]