

UNITED STATES BANKRUPTCY COURT Northern District of Texas		PROOF OF CLAIM
Name of Debtor: Erickson Construction, LLC		Case Number: 09-37016-11
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Just Rite Acoustics, Inc.		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where notices should be sent: Michelle E. Shiro, Singer & Levick, P.C. 16200 Addison Rd. #140, Addison, TX 75001 Telephone number: (972) 380-5533		
Name and address where payment should be sent (if different from above): Telephone number:		
1. Amount of Claim as of Date Case Filed: \$ <u>53,400.00</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5). <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(). Amount entitled to priority: \$ _____ <small>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
2. Basis for Claim: <u>Goods provided</u> (See instruction #2 on reverse side.)		
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date: 02/23/2010 Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. /s/Michelle E. Shiro, Attorney for Just Rite Acoustics, Inc.		FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

Erickson Ret. Comm. LLC



01292

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Sub: Just-Rite Acoustics
It Code: 517EC10-48400-095100

SUBCONTRACT BETWEEN CONTRACTOR AND SUBCONTRACTOR

THIS SUBCONTRACT BETWEEN CONTRACTOR AND SUBCONTRACTOR (this "Agreement") is made as of 05/01/2008 by and between ERICKSON CONSTRUCTION, LLC (the "Contractor"), having an address of 703 Maiden Choice Road, Baltimore, Maryland 21228, Attn: Pete Szpak; and Just-Rite Acoustics (the "Subcontractor"), having an address of 1501 Estes Avenue, Elk Grove Village, IL, 60007.

RECITALS

- A. The Contractor has made a contract for construction dated as of 11/01/2007 (the "Prime Contract") with Lincolnshire Campus, LLC (the "Owner"), having an address of 701 Maiden Choice Lane, Baltimore, Maryland 21228. A copy of the Prime Contract containing all provisions applicable to Subcontractor shall be made available to the Subcontractor, upon request, in Contractor's general office.
- B. The Prime Contract is for the provision of labor, materials and services in connection with the construction of Sedgebrook Renaissance Gardens I.O, 20 Riverside Rd., being part of a project known as Sedgebrook, Inc., located in Lincolnshire, Illinois (the "Project").
- C. The Architect for the Work (as such term is defined in Section 2.1 below) is Wallace Roberts & Todd, LLC (the "Architect"), having an address of 1700 Market Street, Philadelphia, PA, 19103.
- D. The Developer of the Project is Brickson Retirement Communities, LLC (the "Developer"), having an address of 701 Maiden Choice Lane, Baltimore, Maryland 21228.
- E. The Operator of the Project is Sedgebrook, Inc. (the "Operator"), having an address of 701 Maiden Choice Lane, Baltimore, Maryland 21228.

NOW THEREFORE, for good and adequate consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor hereby agrees to hire the Subcontractor to perform the Work, and the Subcontractor hereby agrees to perform the Work, on the terms and conditions hereinafter set forth in this Subcontract.

1. THE SUBCONTRACT DOCUMENTS.

1.1. The Subcontract Documents consist of (1) this Subcontract; (2) provisions of the Prime Contract applicable to the Work, (including all General Conditions to the Prime Contract, and all Drawings and Specifications, as such terms are defined in the Prime Contract); (3) other documents listed in Section 1.2 below; and (4) modifications to this Subcontract issued after execution of this Subcontract. To the extent any terms of this Subcontract are in conflict with the terms of the Prime Contract, the terms of this Subcontract shall control. The Subcontract Documents form the Subcontract, and are as fully a part of this Subcontract as if attached to this Subcontract or repeated herein. The Subcontract represents the entire and integrated Subcontract between the parties hereto and supercedes all prior negotiations, representations or Subcontracts, either written or oral. All initially capitalized terms used herein, unless otherwise defined in this Subcontract, shall have the meanings given such terms in the Prime Contract.

1.2. To the extent not listed directly above, the Subcontract Documents, except for Modifications issued after execution of this Subcontract, are enumerated as follows: (on Exhibit A attached hereto)

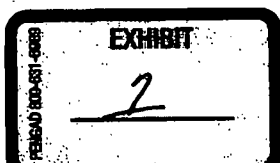
2. THE WORK OF THIS SUBCONTRACT.

2.1. The term "Work" shall mean and refer to all labor, supervision, materials and services scaffolding, tools, equipment, supplies, hoisting, vertical transportation and all other things necessary for the construction and completion of the work described in Exhibit B and work incidental thereto, in strict accordance and full compliance with the terms of the Subcontract Documents (which are hereby incorporated by reference) and this Subcontract and to the satisfaction of Contractor and the Owner.

2.2. The Subcontractor shall execute the Work described below (or if noted below, on Exhibit B attached hereto), including but not limited to, all labor, materials, equipment, services and other items required to complete such portion of the Work, except to the extent specifically indicated in the Subcontract to be the responsibility, of others:

- Exhibit B, Description of work, attached.
- The Work consists of Acoustical Ceilings (Sub).

2.3. Subcontractor shall carefully examine the Subcontract Documents and shall promptly notify Contractor in writing of any deficiencies, discrepancies, ambiguities or errors before proceeding with the Work.



Handwritten signature/initials

EC: Exhibit 2
Sub:

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2.4 Subcontractor represents that it is fully qualified to perform this Subcontract, and acknowledges that, prior to the execution of this Subcontract, it has (a) by its own independent investigation ascertained (i) the Work required by this Subcontract, (ii) the conditions involved in performing the Work, and (iii) the obligations of this Subcontract and the Contract Documents; and (b) verified all information furnished by Contractor or others satisfying itself as to the correctness and accuracy of that information. Any failure by Subcontractor to investigate independently and become fully informed will not relieve Subcontractor from its responsibilities hereunder.

3. CONSTRUCTION SCHEDULE.

3.1. DATE OF COMMENCEMENT. The date of commencement shall be the date of this Subcontract, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Contractor:

Date of Commencement: 03/26/2008

3.1.1. From time to time throughout the term of this Subcontract, the Contractor shall provide the Subcontractor with copies of the Contractor's construction schedule and schedule of submittals, together with such additional scheduling details as will enable the Subcontractor to plan and perform the Work properly. The Subcontractor shall be notified promptly of subsequent changes in the construction and submittal schedules and additional scheduling details.

3.1.2. If requested by Contractor, Subcontractor shall submit detailed schedules for performance of the Subcontract, in a form acceptable to Contractor, which shall comply with all scheduling requirements of the Subcontract Documents. Contractor may from time to time, at its sole discretion, direct Subcontractor to make reasonable modifications and revisions in such schedules.

3.1.3. Subcontractor will proceed with the Work in a prompt and diligent manner, in accordance with Contractor's schedules as reasonably amended from time to time. Subcontractor shall be liable to Contractor for failure to adhere to Contractor's construction schedules including amendments even if such schedules differ from schedules set forth in the Subcontract Documents or the time of completion called for by the Subcontract Documents.

3.1.4. Subcontractor shall be entitled to additional compensation for compliance with schedule amendments or damages for delay only to the extent the Subcontract Documents entitle Contractor to damages or to a contract adjustment increasing the price of the Prime Contract.

3.2. SUBMITTALS. Subcontractor shall make all submittals required by this Subcontract, including shop drawings, test reports, and certificates, within seven (7) days following the Date of Commencement. Subcontractor must revise and resubmit any submittals within seven (7) days after such items are returned to Subcontractor for correction.

3.3. SUBSTANTIAL COMPLETION.

3.3.1. The Project shall be substantially completed not later than 03/31/2009, ("Substantial Completion") subject to adjustments as provided in the Subcontract Documents (see Exhibit B attached hereto for details). Subcontractor must complete its Work on the Project in the necessary time sequence to assure that the Project, including the Work and the work of Contractor and all other subcontractors on the Project, is substantially completed by the date listed above in this Section 3.3.1.

3.4. TIME IS OF THE ESSENCE. Time is of the essence of this Subcontract, subject to any applicable notice and cure periods provided in the Subcontract.

4. SUBCONTRACT SUM.

4.1. SUBCONTRACT SUM. The Contractor shall pay the Subcontractor in current funds for performance of the Subcontract the Subcontract Sum of one hundred thirteen thousand four hundred Dollars and zero Cents (\$113,400.00) subject to additions and deductions as provided in the Subcontract.

4.2. ALTERNATES.

4.2.1. The Subcontract Sum includes the following alternates, (or if noted below, as set forth on Exhibit C attached hereto), if any, which are described in the Subcontract and have been accepted by the Owner and the Contractor:

 X See Exhibit C attached.

 Alternates are included in Exhibit C attached.

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4.2.2. Contractor reserves the right to have Subcontractor provide the following alternates (or, if noted, as set forth on Exhibit C attached hereto, which alternates are not included in the Subcontract Sum.

 X See Exhibit C attached.

 Reserved Alternates defined in Exhibit C attached:

4.3. UNIT PRICES. Unit prices, if any (inclusive of overhead and prices), are as follows (or, if noted, as set forth on Exhibit C attached hereto):

 X See Exhibit C attached.

 Unit Prices are detailed in Exhibit C attached:

4.4. ESTIMATED COST OF THE WORK. The schedule of values breakdown of the amount of the Subcontract Sum is attached hereto as Exhibit C, unless noted otherwise below in this Section 4.4. The schedule of values shall be used by Subcontractor to apply for all payments due to Subcontractor under this Subcontract. If the Schedule of Values is not attached hereto, Subcontractor shall submit to Contractor the Schedule of Values in form similar to ALA G703 format within ten (10.) days of request of Contractor for Contractor's approval. When approved, the Schedule of Values shall be used by Subcontractor to apply for all payments due to Subcontractor under this Subcontract.

 X Estimated Cost of Work is not attached hereto.

5. CONTRACTOR

5.1. SERVICES PROVIDED BY THE CONTRACTOR.

5.1.1. The Contractor shall provide suitable areas for storage of the Subcontractor's materials and equipment during the course of the Work, to the extent such areas are readily available, from time to time.

5.1.2. If Contractor has available and Subcontractor elects to use Contractor's equipment or facilities, an agreed price in writing must be made before such use. Subcontractor shall make its own determination before commencing to use such equipment or facilities that such equipment or facilities are adequate and safe for the Work to be performed. Such equipment and facilities shall be accepted by Subcontractor in "AS-IS" condition without warranty or representation by Contractor as to their condition or adequacy to perform the respective function. Subcontractor agrees that all personnel operating or using such equipment or facilities shall be qualified and properly trained in the operation and use of such equipment or facilities. Subcontractor agrees to return the equipment and facilities to Contractor at the conclusion of the use in as good a condition as received. In the event that any such equipment is damaged while in the possession of Subcontractor, Contractor shall be entitled to exercise Contractor's remedies under Section 8.3 of this Agreement.

6. SUBCONTRACTOR

6.1. LICENSE. The Subcontractor represents to Contractor that Subcontractor is duly licensed to perform the Work in the jurisdiction where the Project is located. Subcontractor represents that Subcontractor's License Number is Registration Number and Sales or Tax Registration Number is 2000 2076 and that all such licenses and registrations shall be maintained in full force and effect throughout the term of Subcontractor's obligations under the Subcontract, including any warranty obligations.

6.2. EXECUTION AND PROGRESS OF THE WORK.

6.2.1. The Subcontractor shall cooperate with the Contractor in scheduling and performing the Subcontractor's Work to avoid conflict, delay in or interference with the work of the Contractor, other subcontractors or Owner's own forces. Subcontractor is obligated to assure that all workmen of Subcontractor work in harmony with all other workmen on the Project.

6.2.2. The Subcontractor shall promptly submit Shop Drawings, Product Data, Samples and similar submittals required by the Subcontract with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Contractor or other subcontractors.

6.2.3. The Subcontractor shall furnish to the Contractor periodic progress reports on the Work of this Subcontract upon request of Contractor, including information on the status of materials and equipment which may be in the course of preparation or manufacture.

6.2.4. The Subcontractor shall complete all of its work in a good and workmanlike manner. The Subcontractor agrees that the Owner will have the authority to reject Work which does not conform to the Prime Contract or to the Subcontract. The Subcontractor shall, at Subcontractor's cost, replace or, if approved by the Owner, repair any defective work and repeat tests as necessary, at Subcontractor's cost, until all Work is proven satisfactory.

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6.2.5. The Subcontractor shall, at Subcontractor's sole cost and expense, supply adequate tools and equipment, and shall also at all times supply and promptly pay for a sufficient number of properly skilled workmen and for a sufficient amount of materials and supplies of proper quality to prosecute efficiently and promptly the Work in accordance with the requirements of the Subcontract and in accordance with a mutually agreed upon schedule. Subcontractor hereby acknowledges that the Project will be built on an accelerated basis and Subcontractor acknowledges that it has taken such accelerated schedule into account for meeting the requirements of this Subcontract. If, in Contractor's reasonable opinion, Subcontractor fails to maintain the progress of its Work in accordance with the agreed upon schedule, Contractor may require Subcontractor to accelerate Subcontractor's performance by use of overtime work, work on Saturdays, Sundays, and Holidays, all without additional compensation, if, in the reasonable opinion of Contractor, such additional work is necessary to maintain proper progress of Subcontractor's Work. Upon request of Contractor, Subcontractor shall submit evidence satisfactory to Contractor evidencing the Subcontractor's ability to comply with the agreed upon schedule. No overtime or charges for an accelerated Construction Schedule shall be paid by Contractor unless specifically agreed to in writing by an executive officer of Contractor before the overtime is performed.

6.2.6. The Subcontractor shall take necessary precautions to protect the work of other subcontractors from damage caused by operations by the Subcontractor. Subcontractor shall be responsible for and protect the Work in place from the elements and all other causes of damage until completion and final acceptance by Contractor and shall adequately store and protect its own materials and materials furnished it by Owner, Contractor and other suppliers. Subcontractor will use without unreasonable waste any materials or equipment furnished by the Owner, Contractor or other suppliers and will pay for any damage to such material or equipment sustained during Subcontractor's use or possession.

6.2.7. Subcontractor shall install all necessary equipment and materials in the necessary time sequence, (except at scheduled temporary omissions and leapfrog areas), and prior to close-in of any area so as to maintain the progress of the Work and the Project and eliminate any rework to install materials or equipment out of sequence. The Subcontractor shall bear any cost related to installation of materials or equipment that is installed out of sequence, unless such out of sequence work is directed or authorized in writing by Contractor. The Subcontractor shall participate in the preparation of coordinated drawings in areas of congestion, specifically noting and advising the Contractor of potential conflicts between the Work of the Subcontractor, the Contractor, and other subcontractors or the Owner's own forces. Subcontractor shall be represented on the Project while the Work is in progress by a competent full-time supervisor satisfactory to Contractor.

6.2.8. Should Subcontractor's performance of the Work be delayed by any acts of Contractor, Contractor's other contractors or Contractor's suppliers, Subcontractor shall receive an equitable extension of time for the performance of the Work, but shall not be entitled to any increase in the Subcontract Sum or to damages or additional compensation as a consequence of such delays, and Subcontractor hereby waives any claim for any such increase, damages or additional compensation.

6.2.9. Subcontractor shall complete all Work in accordance with the mutually agreed upon schedule. No extensions of time or provision for additional costs will be allowed for weather related delays unless Subcontractor submits in writing within seven (7) days from the date incurred, a claim for delay resulting from inclement weather. Contractor may, in its sole discretion, approve or disapprove a claim for delay.

6.3. LAWS, PERMITS, FEES AND NOTICES.

6.3.1. The Subcontractor shall provide all notices and comply with all Federal, state or local laws, ordinances, building codes, rules, regulations and orders of public authorities bearing on performance of the Work of this Subcontract. The Subcontractor shall secure and pay for all permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Subcontractor's Work, the furnishing of which is required of the Contractor by the Prime Contract.

6.3.2. Subcontractor shall be liable to Contractor, Developer, Operator and the Owner for all loss, cost and expense attributable to any acts of commission or omission by Subcontractor, its employees and agents, and lower-tier subcontractors resulting from failure to comply with any Federal, state or local laws, building codes, ordinances or regulations including, but not limited to, any fines, penalties or corrective measures.

6.3.3. Except as otherwise provided by the Subcontract Documents, Subcontractor agrees to pay, comply with, and hold Contractor, Developer and Operator harmless from all social security, state unemployment, welfare fees, and all other Federal, State and local taxes (including sales and use taxes) and fees of every nature applicable to the Work including penalties or any interest.

6.4. SAFETY PRECAUTIONS AND PROCEDURES.

6.4.1. The Subcontractor shall take all appropriate precautions with respect to performance of this Subcontract, shall comply with safety measures initiated by the Owner or the Contractor, and shall comply with all applicable laws, ordinances, rules, regulations and orders of public authorities for the safety of persons or property. The Subcontractor shall report to the Contractor within twenty-four (24) hours an injury to any employee or agent of the Subcontractor which occurred at the site. Subcontractor shall be solely responsible for providing a safe place to work for its agents, employees and sub-subcontractors. Subcontractor shall implement and enforce a health and safety program for its employees and sub-subcontractors on the site, which program shall be at least as effective as the Health and Safety Program of Contractor. Subcontractor's employees and sub-subcontractors on the site shall obey the directives of Contractor's

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Project Manager, Superintendent and Safety Director. All of Subcontractor's employees, agents and contractors must attend the safety meetings held by Contractor's Safety Director, or, in lieu of such attendance, Subcontractor must provide to Contractor the minutes and attendance of all safety meetings conducted by Subcontractor, within two (2) days following the completion of such safety meetings.

6.4.2. If hazardous substances of a type of which an employer is required by law to notify its employees are being used on the site by the Subcontractor, the Subcontractor's sub-subcontractors, or anyone directly or indirectly employed by them, the Subcontractor shall, at least three (3) days before bringing such substances onto the Site, provide Contractor with a materials data sheet for such substances, and give written notice of the chemical composition of such substances to Contractor. Subcontractor will comply with all laws regarding Subcontractor's use and handling of such hazardous substances by Subcontractor or Subcontractor's sub-subcontractors, agents and employees.

6.4.3. Contractor reserves the right to require Subcontractor to perform from time to time, at Subcontractor's cost, drug testing of all or any of Subcontractor's agents, employees and sub-subcontractors. Such testing must be done with testing companies selected or approved by Contractor. Subcontractor must prohibit from the Work Site any persons that test positively for drug use. Contractor shall be entitled to prohibit from the site any persons that Contractor deems to be disruptive to the smooth construction of the Project.

6.5. **CLEANING UP.** The Subcontractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations performed under this Subcontract. Subcontractor shall at all times keep the Subcontractor's work area; keep the premises free from rubbish, debris and waste and surplus materials resulting from its operations; and shall turn over the work area in such condition as to permit the next succeeding work to be commenced without further cleaning. If Subcontractor fails to comply with the provisions of this Section, Contractor shall have the right itself or through others to perform such cleaning and to charge the cost thereof to Subcontractor, plus overhead charges of twenty-five percent (25%), provided the Subcontractor is given a twenty-four (24) hour written notice of such delinquency and fails to remedy same. Subcontractor shall not damage the work of others by its performance of its obligations under the Subcontract and shall indemnify Contractor for damage caused by Subcontractor or its agents to the work of Contractor, and other contractors, including court costs and attorney's fees.

6.6. **WARRANTY.** In addition to any product warranties required by the Subcontract, the Subcontractor warrants to Contractor that all material and equipment incorporated in the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defect and in conformance with the Prime Contract and the Subcontract. All Work not conforming to these requirements may be considered defective. Subcontractor shall, promptly upon request of Contractor, furnish all labor, materials and supervision necessary to correct or replace any defective or nonconforming Work and any damage caused by such defect or fault, at no cost to Contractor or Owner, for a period of one (1) year from the date of Final Payment, except for latent defects, which shall be for a period of six (6) months following the discovery of such latent defect. This warranty shall run to and be enforceable by Owner, Contractor, and their successors and assigns. This warranty shall be in addition to and not in limitation of any other warranty or remedy provided by law or by the Subcontract.

6.7. **INDEMNIFICATION.** To the fullest extent permitted by law, the Subcontractor shall indemnify, defend and hold harmless the Owner, Contractor, Operator, Developer, their respective parent and subsidiaries, and their respective agents, officers, employees, members and directors of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees and court costs, arising out of or resulting from performance of the Subcontractor's Work under this Subcontract, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent or intentional acts or omissions of the Subcontractor, the Subcontractor's sub-subcontractors, materialmen or suppliers, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. 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 Section 6.7.

7. CHANGES IN THE WORK.

7.1. **CONTRACTOR CHANGES.** Contractor may at any time make changes in the Work either:

- (a) By written change order signed by Contractor and Subcontractor prior to commencement specifying the changes to be made and the increase or decrease in the Subcontract Sum and extension of time, if any; or
- (b) By written direction to Subcontractor to proceed with changes in the Work, specifying the changes to be made and specifically stating that an equitable adjustment in the Subcontract Sum will be made, based on the time and materials to perform such changes; or
- (c) By written direction to Subcontractor to proceed with changes in the Work, specifying the changes to be made and specifically stating that the Subcontract Sum shall be adjusted based on actual costs of performing such changes based on time and materials, plus a fixed fee, to be set in such change order.

7.2. **OBLIGATION TO PROCEED.** Subcontractor shall proceed with the changes ordered so as not to delay the Work. In the event Contractor changes the Work pursuant to 7.1(b) above, Subcontractor shall file with Contractor within seven (7) days from the

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date of such order Subcontractor's written itemized estimate for the cost of performing the changes to be made. If mutual agreement on the cost is reached, Subcontractor and Contractor will execute a written change order executed by the authorized officers or designees of Contractor and Subcontractor. If mutual agreement cannot be reached and the changes are required by Contractor, the Work shall proceed and Subcontractor shall be entitled to a reasonable adjustment in the Subcontract sum and in the time for performance of the work to the extent such adjustments are focused by the Contractor's written change order. If the extra Work or changes are required by Contractor, Subcontractor does not waive its right by proceeding under protest provided it so notifies Contractor in writing within five (5) days from submittal of the itemized estimate referred to above.

7.3. COST AND TIME. Subcontractor shall respond to a proposed change within seven (7) days of request by Contractor. In the event that a Subcontractor change order response is not delivered to the Contractor by the date required, it shall be conclusively presumed that such proposed change does not result in a change in Subcontractor's cost or construction time, and all work and materials called for by the proposed change order shall be provided by Subcontractor at no additional cost or delay to Contractor. For changes in the work for which contractual unit prices, if any, do not apply, the Subcontractor shall submit an itemized breakdown of his estimated cost for such changes with the following percentages for overhead and profit combined: Fifteen percent (15%) on work performed by Subcontractor's own forces or by sub-subcontractors and five percent (5%) on work performed on behalf of Subcontractor by a sub-subcontractor.

8. TERMINATION, REMEDIES FOR DEFAULT AND ASSIGNMENT OF THE SUBCONTRACT.

8.1. TERMINATION BY THE SUBCONTRACTOR. The Subcontractor may terminate the Subcontract if Contractor fails to pay to Subcontractors any sums due to Subcontractor within forty-five (45) days following the date such sums were due and payable to Subcontractor. Such termination shall only be effective if Subcontractor makes written demand for such payment to Contractor following the expiration of such forty-five (45) day period and Contractor fails to pay all sums then due and payable within ten (10) days following receipt of Subcontractor's demand. In the event of such termination by the Subcontractor, the Subcontractor shall be entitled to recover from the Contractor payment for Work executed to date of termination and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery (but not for anticipated profits).

8.2. TERMINATION BY THE CONTRACTOR.

8.2.1. If the Subcontractor (i) fails or neglects to carry out the Work in accordance with the Subcontract or otherwise to perform in accordance with this Subcontract; and (ii) fails within thirty-six (36) hours after receipt of notice to correct such default or neglect, the Contractor, in addition to Contractor's remedies under Section 8.3 and 8.4 of this Subcontract, may immediately and without further notice to Subcontractor terminate the Subcontract.

8.2.2. For its convenience, the Contractor shall have the right to terminate this Subcontract for any reason by giving the Subcontractor written notice of termination. Such termination for the Contractor's convenience shall be effective upon Subcontractor's receipt of written notice of such termination. Termination for default, if wrongfully made, shall be treated as a termination for convenience. In the event that the Subcontractor is terminated for the convenience of the Contractor, the Subcontractor shall be paid a pro rata percentage of the Subcontract Sum equal to the percentage of Work in place, less payments theretofore received by the Subcontractor. In no event shall the Subcontractor be entitled to receive payment for anticipated profits for unperformed Work.

8.3. CONTRACTOR'S REMEDIES. Should Subcontractor (a) fail to correct, replace and/or re-execute faulty or defective Work and/or materials furnished under the Subcontract; (b) fail to complete or diligently proceed with the Work in accordance with the agreed upon schedule; (c) fail to correct or repair any damage to the Project caused by the acts or omissions of Subcontractor; or (d) otherwise be in default of any provision of the Subcontract, if such failure or default is not corrected, then Contractor shall have the right to correct, replace or otherwise remedy and such defect, deficiencies or delayed performance by any reasonable and expedient means, including taking over or supplementing Subcontractor's Work and materials and employing such additional labor, equipment and materials as may be necessary to cure the default and achieve compliance with the Subcontract. In such event, Contractor may deduct from any sums due to Subcontractor the cost of performing such work and correcting such deficiencies, plus overhead of fifteen percent (15%) of such cost. If payments then or thereafter due Subcontractor are not sufficient to cover such amount, Subcontractor shall promptly pay the difference to Contractor. The remedies of Contractor under this subparagraph are in addition to any other remedies available to Contractor under the Subcontract or available at law or in equity.

8.4. CONTRACTOR'S ADDITIONAL REMEDIES. Subcontractor shall reimburse Contractor for any loss, damage or extra expense paid or incurred by Contractor which is due to Subcontractor's failure to supply materials, labor, or to properly perform the Work in accordance with the Subcontractor Documents. Subcontractor's failure to perform shall include the failure of its lower-tier subcontractors to perform. Subcontractor's liability shall include but not be limited to (1) damages and other delay costs payable by Contractor to the Owner; (2) Contractor's increased costs of performance, such as extended overhead and increased performance costs resulting from Subcontractor-caused delays or improper Subcontractor Work; (3) warranty and rework costs; (4) liability to third parties; (5) excess reprourement costs; (6) consultants' fees; and (7) attorneys' fees and court costs. Contractor may take over any of Subcontractor's outstanding sub-subcontracts and purchase orders and take possession of all tools, equipment, scaffolds, material and supplies of Subcontractor which are on the Project site, in transit to, or especially manufactured for, the Work for use in completion of the Project. Contractor is hereby granted a lien on all such property to secure Subcontractor's performance under this Subcontract. Subcontractor shall, upon request of Contractor, execute and deliver to Contractor all documents and take all such steps to effect the legal assignment of Subcontractor's contractual rights under such sub-subcontracts and purchase orders, but Contractor shall not be required to

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assume any of Subcontractor's outstanding obligations thereunder.

8.5. ASSIGNMENT OF THE SUBCONTRACT.

8.5.1. In the event of termination of the Prime Contract by the Owner, the Contractor may assign this Subcontract to the Owner, with the Owner's agreement, subject to the provisions of the Prime Contract and to the prior rights of the surety, if any, obligated under bonds relating to the Prime Contract.

8.5.2. The Subcontractor shall not assign this Subcontract without the written consent of the Contractor, nor subcontract the whole or any portion of this Subcontract without the written consent of the Contractor.

9. MUTUAL RIGHTS AND RESPONSIBILITIES.

The Contractor and Subcontractor shall be mutually bound by the terms of this Subcontract and, to the extent that provisions of the Prime Contract apply to the Work of the Subcontractor, the Contractor shall assume toward the Subcontractor all obligations and responsibilities that the Owner, under the Prime Contract, assumes toward the Contractor, and the Subcontractor shall assume toward the Contractor all obligations and responsibilities which the Contractor, under the Prime Contract, assumes toward the Owner and the Architect. The Contractor shall have the benefit of all rights, remedies and redress against the Subcontractor which the Owner, under the Prime Contract, has against the Contractor, and the Subcontractor shall have the benefit of all rights, remedies and redress against the Contractor which the Contractor, under the Prime Contract, has against the Owner, insofar as applicable to this Subcontract. Where a provision of the Prime Contract is inconsistent with a provision of this Subcontract, this Subcontract shall govern.

10. PROGRESS PAYMENTS.

10.1. APPLICATIONS FOR PAYMENT.

SUBCONTRACTOR SHALL SUBMIT ALL REQUISITIONS AND APPLICATIONS FOR PAYMENT FOR PAYMENT PROCESSING TO: ERICKSON CONSTRUCTION, LLC, Peta Szpak 20 Riverside Rd., Lincolnshire, IL, 60069 OR TO SUCH OTHER ADDRESS AS CONTRACTOR MAY DIRECT.

10.1.1. Based upon applications for payment submitted to the Contractor by the Subcontractor, corresponding to Applications for Payment submitted by the Contractor to the Owner, and Certificates for Payment issued by the Owner, the Contractor shall make progress payments on account of the Subcontract Sum to the Subcontractor as provided below and elsewhere in the Subcontract. Each application for payment shall be in the form attached hereto as Exhibit D, or such other form as may otherwise be requested by Owner, and must include a Partial Release of Liens in either the form attached hereto as Exhibit E, or such other form as may otherwise be requested by Owner, and with such detail substantiating Subcontractors right to payment. With each application for payment, Owner will require a Sworn Statement in compliance with Illinois Mechanics Lien Statute, 770 ILCS 60/5 and lien waivers and releases valid under Illinois law in the form attached hereto as Exhibit E or Exhibit F, as applicable, or such other form as may otherwise be requested by Owner.

10.1.2. The period covered by each application for payment submitted by Subcontractor shall be one (1) calendar month ending on the last day of the calendar month. Each application for payment must be based on actual work performed by or under Subcontractor through the 19th day of the month, and the reasonably estimated work to be performed by or under Subcontractor during the balance of the month.

10.1.3. Provided an application for payment is received by the Contractor not later than the 20th day of a month, the Contractor shall include the Subcontractor's Work covered by that application in the next Application for Payment which the Contractor is entitled to submit to the Owner. Subcontractor's progress payments shall be due and payable within ten (10) working days after the Contractor receives payment for the Subcontractor's Work from the Owner. If the Owner or Architect fails to issue a Certificate for Payment or the Owner fails to pay Contractor for Subcontractor's Work within forty-five (45) days following the applicable Application for Payment, and such failure is not the fault of the Subcontractor or Subcontractor's sub-subcontractors, the Contractor shall pay the Subcontractor, within ten (10) days following demand, a progress payment computed as provided in Section 10.2 of this Subcontract. Notwithstanding the foregoing, payments to Subcontractor may be withheld on account of (i) defective Work not remedied, (ii) claims filed, (iii) damage to Contractor or another subcontractor or (iv) failure to carry out the Work in accordance with the Subcontract.

10.1.4. If an application for payment is received by the Contractor on or after the 21st day of any calendar month, the Subcontractor's Work covered by such application shall be included by the Contractor in the next Application for Payment submitted to the Owner.

10.1.5. Each application for payment shall be based upon the most recent schedule of values approved by the Contractor in accordance with Section 4.4 of this Subcontract. Applications for payment submitted by the Subcontractor shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Subcontractor's application for payment.

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10.1.6. Subcontractor shall pay all claimants for all costs and expenses resulting from the performance of the Work and for all labor and materials used. Subcontractor is liable for and shall hold Contractor and Owner harmless from and indemnify Contractor and Owner for all court costs, attorney's fees and damages resulting from claims by sub-subcontractors and Subcontractor's suppliers and all liens and all claims of persons furnishing material or labor on behalf of Subcontractor in connection with the Work. Subcontractor shall deliver to Contractor with each application for payment recordable affidavits and lien releases or waivers acceptable to Contractor from Subcontractor and Subcontractor's sub-subcontractors and suppliers. In the event any person or entity claiming by, through or under Subcontractor notifies Contractor of any non-payment or seeks to encumber funds held by Contractor and payable to Subcontractor or files a lien or other claim against the Project, or Contractor's interest therein, Subcontractor shall within three (3) days notify Contractor if Subcontractor disputes such claim. If at any time a lien has been filed against Contractor, the Owner, the Project or any sums held by Contractor by any person or entity claiming through Subcontractor, Subcontractor shall, within seven (7) days of receipt of notice of such lien pay the claim and cause the lien to be released or shall file a bond in lieu of the payment of such lien and shall cause the lien to be released from the project.

10.1.7. Notwithstanding the foregoing, if such lien or claim is due solely to sums wrongfully held by Contractor, Subcontractor shall not have any obligation to hold harmless or indemnify Contractor against such lien or claim.

10.2. PROGRESS PAYMENTS. Subject to the provisions of the Subcontract, the amount of each progress payment shall be computed as follows:

10.2.1. Take that portion of the Subcontract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Subcontractor's Work by the share of the total Subcontract Sum allocated to that portion of the Subcontractor's Work in the schedule of values, less that percentage actually retained, if any, from payments to the Contractor on account of the Work of the Subcontractor;

10.2.2. Add that portion of the Subcontract Sum properly allocable to materials and equipment delivered and suitably stored at the site by the Subcontractor for subsequent incorporation in the Subcontractor's Work or, if approved in advance in writing by the Owner, suitably stored off the site at a location agreed upon in writing, less the same percentage retainage required by the Prime Contract to be applied to such materials and equipment in the Contractor's Application for Payment;

10.2.3. Subtract the aggregate of previous payments made by the Contractor; and

10.2.4. Subtract amounts, if any, calculated under Subparagraph 10.2.1 or 10.2.2 which are related to Work of the Subcontractor for which the Architect has withheld or nullified, in whole or in part, a Certificate of Payment for a cause which is the fault of the Subcontractor or Subcontractor's sub-subcontractors.

10.2.5. All periodic payments by Contractor shall be subject to a retainage, to be held by Contractor, of ten percent (10%) of the amount billed by Subcontractor. To the extent approved or permitted by Owner and any lender providing financing for all or any part of the Work, and if Subcontractor is in compliance with the terms of the Subcontract, the aggregate amount of the retainage, subject to offset for defects and deficiencies, shall be reduced to five percent (5%) upon the Work achieving fifty percent (50%) completion and acceptance thereof by Contractor and Owner. No periodic payment by Contractor shall be deemed to constitute acceptance of any faulty or defective Work.

10.3. STORED MATERIALS. Notwithstanding the provisions of Subsection 10.2, payment for stored materials may be conditioned on delivery to the Owner of bills of sale (which shall include a complete description, including photographs, bills of lading, serial numbers, warehouse receipts and/or inventories, as appropriate for Owner to identify the stored materials) and such other procedures satisfactory to Owner to establish the Owner's title and to insure and otherwise protect the Owner's interest in and to such stored materials, unless requested otherwise by Contractor. Subcontractor shall schedule the materials to prevent the arrival of major items well in advance of their incorporation into the improvements.

10.4. SUBSTANTIAL COMPLETION. When the Work or a designated portion thereof is substantially complete in accordance with the requirements of the Prime Contract, the Contractor shall, upon application by the Subcontractor, make prompt application for payment for such Work. Within thirty (30) days following issuance by the Owner of the Certificate for Payment covering such substantially completed Work, the Contractor shall, to the full extent allowed in the Prime Contract, make payment to the Subcontractor, deducting any portion of the funds for the Work withheld in accordance with the Certificate of Payment to cover costs of items to be completed or corrected by the Subcontractor. Such payment to the Subcontractor shall be the entire unpaid balance of the Subcontract Sum if a full release of retainage is allowed under the Prime Contract for the Work prior to the completion of the entire Project. If the Prime Contract does not allow for a full release of retainage, then such payment shall be an amount which, when added to previous payments to the Subcontractor, will reduce the retainage on the Subcontractor's substantially completed Work to the same percentage of retainage as that on the Contractor's work covered by the Certificate of Payment.

11. FINAL PAYMENT.

11.1. TIME. Subject to the provisions of Section 10.4, final payment, constituting the entire unpaid balance of the Subcontract Sum, shall be made by the Contractor to the Subcontractor when the Work is fully performed in accordance with the

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requirements of the Subcontract, Subcontractor has filed a final application for payment, the Owner has issued a Certificate for Payment covering the Subcontractor's completed Work and the Contractor has received payment from the Owner. If a Certificate for Payment is not issued within forty-five (45) days of Contractor's application for payment, or the Contractor does not receive from the Owner payment within forty-five (45) days of Contractor's application for payment, and such payment is otherwise due to Subcontractor and such failure is not due to any fault of Subcontractor, final payment to the Subcontractor shall be made upon demand.

11.2. LIEN WAIVERS. Final payment shall not be due until Subcontractor has delivered to Contractor a complete, recordable affidavit and release of all liens arising out of this Subcontract, in the form attached hereto as Exhibit E, or such other form as may otherwise be requested by Owner, covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Contractor indemnifying Contractor and the Project against any and all lien(s). If any lien remains unsatisfied after all payments are made, Subcontractor shall refund to Contractor all monies the latter may be compelled to pay in discharging such lien, including all court costs and expenses and reasonable attorney's fees. The acceptance of final payment shall constitute a release of all claims by Subcontractor except those previously made in writing and identified by Subcontractor as unsettled at the time of the final application for payment.

11.3. EVIDENCE OF PAYMENT. Before issuance of the final payment, the Subcontractor, if required, shall submit evidence satisfactory to the Contractor that all payrolls, bills for materials and equipment, and all known indebtedness connected with the Subcontractor's Work have been satisfied.

11.4. SUB-SUBCONTRACTORS AND PROVIDERS. Subcontractor shall keep Contractor informed of all sub-subcontractors, and all materials and/or service providers of any tier who provide materials or service for any part of the Work in excess of One Thousand Dollars (\$1,000.00) by completing, submitting and updating as appropriate Exhibit G attached hereto.

12. INSURANCE AND BONDS.

12.1. COVERAGES.

12.1.1. Before the Subcontractor commences any Work pursuant to this Subcontract, the Subcontractor shall obtain and maintain throughout the term of the Subcontract, insurance of the types and in the minimum amounts set forth on Exhibit H. Self-insured retentions and/or deductibles may not be more than Ten Thousand Dollars (\$10,000.00). Acceptance of any insurance by Contractor shall not relieve or decrease the liability of the Subcontractor.

12.1.2. Coverages must be maintained with financially secure insurance companies licensed to do business in the State where the Project is located, have a Best's Guide Rating of not less than A-VI and must otherwise be acceptable to Owner and Contractor. Coverage must be maintained without interruption from date of commencement of the Work until date of final payment, and Contractor, Developer, Owner, and the Operator, their parent and subsidiary companies, together with their employees, officers agents, members and directors shall be named as additional insureds and Lender where required, under Subcontractor's Commercial General Liability policy, Automobile liability policy, Products/Completed Operations Coverage and the Umbrella/Excess Insurance. The additional insured coverage is to be provided by ISO form CG20100704, CG20370704, or equivalent forms, a copy of which will be provided with the certificate of insurance. All such policies shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs afforded to the indemnitees and/or additional insured's identified within this agreement.

12.1.3. Certificates of insurance acceptable to the Contractor, together with all appropriate endorsements, shall be filed with the Contractor prior to commencement of the Subcontractor's Work, and at least ten (10) days prior to the expiration of any policy. These certificates and the insurance policies required by this Article 12 shall contain an endorsement that coverages afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the Contractor. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final application for payment as required in Article 11. If requested by Contractor, Subcontractor shall provide certified copies of all such policies to Contractor within ten (10) days of such request. Subcontractor must immediately notify Contractor of any reduction or restriction in the required insurance that takes place during the term of the Subcontract, and/or in the event the insurer notifies the Subcontractor of its intent not to renew coverage.

12.1.4. The Contractor shall furnish to the Subcontractor upon demand, satisfactory evidence of insurance required of the Contractor under the Prime Contract.

12.1.5. If Subcontractor fails to secure and maintain the required insurance, Contractor shall have the right (without any obligation to do so, however) to secure same in the name and for the account of the Subcontractor in which event the Subcontractor shall pay the costs thereof to Contractor upon demand and furnish upon demand all information that may be required in connection therewith.

12.1.6. The insurance provisions of this Subcontract shall not be construed as a limitation on the Subcontractor's responsibilities and liabilities pursuant to the terms and conditions of the Subcontract, including, but not limited to, liability for claims in excess of the insurance limits and coverages set forth herein.

12.1.7. The Subcontractor shall not make changes in or allow the required insurance coverages to lapse without the Contractor's prior written approval thereto.

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12.2. WAIVERS OF SUBROGATION. The Contractor and Subcontractor waive all rights against (1) each other and any of their Subcontractors, sub-subcontractors, agents, employees, officers, members and directors, each of the other, and (2) the Owner, Developer, Operator, and any of their Subcontractors, sub-subcontractors, agents, employees, officers, members and directors, for damages caused by fire of other perils to the extent covered by property insurance provided under the Prime Contract or other property insurance applicable to the Work, except such rights as they may have to proceeds of such insurance held by the Owner as fiduciary. The Subcontractor shall require of the Subcontractor's sub-subcontractors, agents and employees, by appropriate agreements, written where legally required for validity, similar waivers in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

12.3. The Contractor shall promptly, upon request of the Subcontractor, furnish a copy or permit a copy to be made of any bond covering payment of obligations arising under the Subcontract.

12.4. Performance Bond and Payment Bond:

Bond Not Required for the payment and performance bonds. All bonds must be in the AIA312 format or equal. Cost of bond is on bonding company's invoice at standard rates. Subcontractor must include the names of the Owner and Lender on all bonds as a dual obligee. Subcontractor can provide this information through a dual obligee rider. Two original copies of all bonds are required and should be forwarded to the Corporate Office located at 991 Corporate Boulevard, Linthicum, MD 21090.

Unless waived by Contractor in this Subsection 12.4, prior to the commencement of the Work, Subcontractor shall pay for and deliver to Owner acceptable, statutory payment and performance bonds in the full amount of the Subcontract sum issued by a surety acceptable to Owner.

13. SETTLEMENT OF DISPUTES.

13.1. In the event of any dispute involving the Work performed or to be performed, Contractor shall issue a decision which shall be followed by Subcontractor, without interruption, deficiency, or delay. If Subcontractor does not agree with such decision, Subcontractor may make a claim under Section 7.3. and the matter shall be resolved as set forth in Article 13.2. or 13.3. as applicable. If the Subcontractor prevails, Subcontractor's sole remedy shall be an equitable adjustment determined as provided in Section 13.2. or 13.3. as applicable. In addition to notice required by Article 9 of the Subcontract Documents, notification of any claim for the equitable adjustment must be asserted in writing not later than ten (10) days after Subcontractor's knowledge of the claim, and if Section 13.2. is applicable, within sufficient time to allow Contractor to give notice to the Owner under the Subcontract Documents.

13.2. In case of any dispute between Contractor and Subcontractor, in any way relating to or arising from any act or omission of the Owner or involving the Subcontract Documents, Subcontractor agrees to be bound to Contractor to the same extent that Contractor is bound to the Owner, by the terms of the Subcontract Documents, and by any and all preliminary and final decisions or determinations made thereunder by the party, board or court so authorized in the Subcontract Documents or by law, whether or not Subcontractor is a party to such proceedings. In case of such dispute, Subcontractor will comply with all provisions of the Subcontract Documents allowing a reasonable time for Contractor to analyze and forward to the Owner any required communications or documentation. Contractor will, at its option, (1) present to the Owner, in Contractor's name, or (2) authorize Subcontractor to present to the Owner, in Contractor's name, all of Subcontractor's claims and answer the Owner's claims involving Subcontractor's Work, whenever Contractor is permitted to do so by the terms of the Subcontract Documents. Contractor will further invoke on behalf of Subcontractor, or allow Subcontractor to invoke, those provisions in the Subcontract Documents for determining disputes. If such dispute is prosecuted or defended by Contractor, Subcontractor, at its own expense, agrees to furnish all documents, statements, witnesses, and other information required by Contractor and to pay or reimburse Contractor for all costs incurred by Contractor in connection with the dispute including attorneys' fees and court costs.

13.3. To the extent not resolved under Section 13.2 above, any dispute between Contractor and Subcontractor shall, at Contractor's sole option, be decided by litigation. In the event of any lawsuit under this clause, the Courts of Illinois shall have sole and exclusive jurisdiction. DUE TO THE SPECIALIZED NATURE OF CONSTRUCTION LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHT TO A TRIAL BY JURY.

14. MISCELLANEOUS PROVISIONS.

14.1. GENERAL CONDITIONS. Where reference is made in this Agreement to a provision of the General Conditions or another Subcontract Document, the reference refers to that provision as expressly amended or supplemented by other provisions of the Subcontract Documents.

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14.2. **PRIVITY.** Until Subcontractor's obligations under this Subcontract are completely fulfilled, Subcontractor agrees not to perform any Work directly for the Owner or deal directly with the Owner's representatives in connection with the Project, unless otherwise directed in writing by Contractor. All Work for this Project performed by Subcontractor shall be processed and handled exclusively by Contractor.

14.3. **VEHICLES.** All vehicles are to be operated in accordance with the traffic and parking rules and regulations of the Operator and the Contractor. Violation of these rules may result in the vehicle being towed at the owner's expense, and the vehicle and operator being banned from the site. All workers authorized to park within the site must obtain parking passes from the Contractor's office and must display the parking passes whenever the vehicle is on the site. Subcontractor's employees, agents and sub-subcontractors may park vehicles only in areas on or off-site as designated for parking by Owner or Contractor.

14.4. **RESIDENTS OF RETIREMENT COMMUNITY.** The safety and protection of the residents of the Project is of paramount importance to the Contractor. Subcontractor, its workers, suppliers, and sub-subcontractors must adhere to all traffic regulations, noise restrictions, and other safety standards established by the Contractor and the Operator. Residents of the Project must be treated with courtesy and respect at all times. In the event that the buildings are occupied while the Subcontractor is performing work on the Project, all courtesy is to be extended to the residents and precautions taken to avoid any disruption or inconvenience during this usage.

14.5. **SIGNS.** No signs may be placed on any portion of the site and/or building without written permission of Owner.

14.6. **COMMUNICATIONS.** It is agreed and understood that all communications by or through Subcontractor to the Architect, Engineer, Owner, Developer or any representative thereof shall be made through Contractor.

14.7. **EXAMINATION OF PRIOR WORK.** Subcontractor shall carefully examine the work of others which may affect the Work and shall notify Contractor in writing, completely detailing and supporting any apparent deficiencies therein before performing the Work; otherwise, such other Work shall be deemed acceptable to Subcontractor and Subcontractor shall be deemed to have waived all claims with respect thereto.

14.8. **INVALIDITY.** If any provision of the Subcontract is found to be invalid, unenforceable or unlawful, such provision shall be enforced in such manner as shall most nearly affect the intent of the parties and yet conform to the law applicable thereto and the remainder of the Subcontract Documents shall remain in full force and effect.

14.9. **NOTICES.** Except as stated in Section 10.1 of this Agreement, all notices, requests, approvals and other communications required or permitted to be delivered under the Subcontract must be in writing and shall be effective upon: (a) the date of delivery if hand-delivered to the other party or forwarded by facsimile to a number provided and authorized for delivery of notices by the receiving party; (b) the date of transmission if sent by telegram; (c) the date after mailing if sent by overnight commercial carrier; or (d) three (3) business days after mailing if sent by U.S. mail. Except for the use of facsimiles, if permitted, all notices must be sent to the addresses listed in the introductory paragraph of this Agreement, or to such other address as may be expressly designated in writing by either party as the correct address for notices, requests, approvals and other communications.

14.10. **INDEPENDENT CONTRACTOR.** Subcontractor is an independent contractor and hereby assumes all of the rights, duties, obligations and liabilities thereby arising.

14.11. **WAIVER.** Any failure by Contractor at any time or from time to time to enforce or require the strict performance of any of the terms or conditions hereof shall not affect or impair Contractor's right to at any time thereafter avail itself of the remedies available for the subsequent breach of such terms or conditions.

14.12. **GOVERNING LAW.** The Subcontract shall be governed by the law of the State in which the Project is located. No presumption shall be deemed to exist in favor of or against either party as a result of the preparation and/or negotiation of the Subcontract. The Subcontract and Subcontract Documents are subject to the Contract between the Owner and Contractor, the General Conditions, and the Additional Supplementary General Conditions.

14.13. **EQUAL OPPORTUNITY.** Subcontractor agrees not to discriminate against any employee or applicant for employment because of race, religion, sex, handicap or national origin.

14.14. **EXHIBITS.** The following exhibits are attached hereto:


Exhibit A - Drawing Log
Exhibit B - Scope
Exhibit C - SOV
Exhibit D - Pay Application
Exhibit E - Partial Release
Exhibit F - Final Release
Exhibit G - Vendor List

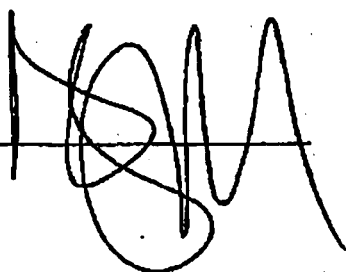
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Exhibit H, Sched B - Insurance Requirements Sched. B

This Agreement entered into as of the day and year first written above.

WITNESS:





CONTRACTOR
ERICKSON CONSTRUCTION, LLC

By: 

David Tague
Vice President

Dated: 01/10/08

SUBCONTRACTOR

By: 

Just-Rite Acoustics
Jamie Harrison
Vice President

Dated: 5-23-08

Sub: Just-Rite Acoustics
Cos Ade: 517-EC1.0 - 48400-095100

EXHIBIT "B"

SUBCONTRACTOR SCOPE OF WORK

This Subcontractor agrees to furnish at its own cost and expense, all labor, materials, tools, equipment and facilities necessary to safely and fully complete the work described in accordance with the Contract Documents; Said work is generally described as RENAISSANCE GARDEN RG1.0 ACOUSTICAL TILE CEILINGS and as more specifically described including but not limited to the following clarifying items:

1. This subcontractor is aware of the need to perform all of the work under the scope of this subcontract per the Contract Documents including the Plans and Specifications. This subcontractor will note any deviations from this requirement in writing to Erickson Construction LLC with a proposal for the work and an explanation and value of said deviation. Errors by this subcontractor on submittals are the responsibility of this subcontractor. Submittals, Material Data and Samples are to be completed and delivered to Erickson Construction, L.L.C. office by May 15, 2008. Seven copies are required. This Subcontractor's submittals are to clearly describe where each product is to be utilized. This Subcontractor is to submit product data for all items that are to be installed regardless of approval on previous projects.
2. This subcontractor's Certificate of Insurance and MSDS data sheets must be submitted to Erickson Construction LLC before any work can be performed on site, no later than four weeks from award or May 15, 2008.
3. Substitutions are generally not accepted for this project. When more than one (1) product is specified, the first product specified is the "Basis of Design". When any alternate is proposed by this subcontractor, this subcontractor is responsible to prove to the Architect and Engineer that it meets or exceeds the "Basis of Design", in accordance with the Contract Documents including specification section 01600.
4. This subcontractor is to furnish and install all specified lay in ceiling and grid per the Contract Documents including the plans and specifications.
5. This subcontractor is to furnish and install all egg crate covers in accordance with the Contract Documents.
6. This subcontractor is to furnish and install all associated caulking in accordance with the Contract Documents.
7. This subcontractor is to furnish and install insulation above acoustical ceiling panels as in accordance with the Contract Documents.
8. This subcontractor includes all hoisting, lifting, staging, scaffolding and storage requirements for your scope of work.
9. This subcontract includes a not to exceed cost of \$9,400.00 to pre-hang wires ahead of spray on fireproofing. This subcontractor to provide work tickets to Erickson Construction daily. This subcontractor is aware the building structure which is structural steel will be spray fireproofed (including Bar Joists & deck). This spray fireproofing activity will follow slab pours. Those subcontractors removing spray fireproofing beyond reasonable limits (determined by Erickson Construction) for installation of supports and hangers, or any miscellaneous type of work, will be held responsible for the additional costs to perform the repair work.
10. This subcontractor is Daily clean-up of your scope of work to dumpsters provided by Erickson Construction. All areas are to be construction clean after every work day. This includes trash, cans, garbage, etc.
11. This subcontractor is Provide attic stock/extra materials in accordance with the Contract Documents.
12. Hourly Rates:

Foreman Carpenter
Journeyman Carpenter

Straight Time
\$ 84.00
\$ 81.00

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13. Schedule:

- Foundation: Projected Start October 15, 2007
- Structural Steel Complete May 22, 2008
- Start Install of Roof Trusses (by others) May 15, 2008
- Start Install of Metal Studs/Blocking June 10, 2008
- Start HVAC Rough-in June 26, 2008
- Start window installation June 30, 2008
- Start hanging drywall July 30, 2008
- Start swing doors September 11, 2008
- Start Painting drywall August 13, 2008
- Start Installing Acoustical Ceilings, August 21, 2008
- MEPS trim to start August 21, 2008
- Cabinet Installation to start November 15, 2008
- Occupancy Inspections to Start January 15, 2009

14. Alternates:

- a. Add Light Tenting over all lay in fixtures add \$ 49,200.00

15. This subcontractor is aware that the project will be inspected by the Illinois Department of Public Health as well as other Governing Authorities. All test and inspections shall be completed on a timely basis so as to maintain the schedule and allow time for other subcontractors to perform their work and inspections on a timely basis.

16. This subcontractor is aware that the building will be occupied in a single occupancy and will work with Erickson Construction, LLC and the Village of Lincolnshire to achieve this occupancy.

17. This subcontractor to provide the necessary layout for own work from control points and bench mark(s) provided by others.

18. This subcontractor includes come back at the two hoist bays and the access to the courtyard.

19. This subcontractor includes Addendum #1 dated August 7, 2007 and Addendum #2 dated August 17, 2007.

20. This subcontractor is to coordinate all carpentry work with Erickson Construction, LLC, all subcontractors (specifically but not limited to Kitchen Equipment, Laundry Equipment, Mechanical, Electrical and Sprinkler subcontractors) Architect and Owner.

21. This subcontractor includes Sales taxes on all materials provided by this subcontractor.

22. The Acoustical Ceilings scope of work shall not include the following:

- a. Stepped Edge molding
- b. Light Tenting over all lay in fixtures

General Scope

1. Subcontractors shall be responsible to review the drawings for ALL trades' work to determine the scope of work and necessary coordination for their package.
2. Subcontractors are made aware that time is of the essence. Should the Subcontractor fail to meet the project schedule, fail to provide sufficient labor force, or have late delivery of materials not caused by the Architect, Owner, or General Contractor, the Subcontractor will work all associated overtime to get back on schedule at no cost to the Architect, Owner, or General Contractor.

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3. Construction entrance is at the north entrance to the campus using Riverside Road. **DO NOT USE THE MAIN COMMUNITY GATED ENTRANCE OFF MILWAUKEE AVENUE.** Additionally the Subcontractor will be responsible to make certain that all delivery trucks do not use the Community Entrance. The speed limit on all the Sedgebrook Community roadways is 15 miles per hour. This subcontractor is aware that Residents of the Sedgebrook Community may be encountered in traffic or as pedestrians and every care must be taken to minimize impact to the Residents. Each Subcontractor is responsible to make certain that all delivery trucks adhere to this requirement. Coordinate all deliveries with Erickson Construction Superintendent.
4. This subcontractor understands all construction vehicles and employees must use the designated construction parking areas. This subcontractor will continuously reinforce this stipulation with their tradesmen.
5. This subcontractor is responsible for keeping all of its operations, storage, trailers, materials, etc. within designated staging areas. No equipment, materials, trailers, etc. can be stored outside the storage area without specific permission of Erickson Construction.
6. Where conflicts arise between these general notes and in the notes in the individual bid packages, the note in the best interests of the owner shall govern, as determined by the owner.
7. This Subcontractor is to provide temporary protection of existing construction and finishes as required to complete the work of their subcontract agreement. Ensure that materials and equipment stored inside the building do not damage the existing finishes and furnishings.
8. Cooperation with the Owner's testing agencies is required. Allow sufficient time to take tests and conduct inspections. Twenty-four (24) hour notice will be the minimum standard in notifying Erickson Construction, LLC and Testing Agency of required services. All testing services will be provided by the Owner.
9. Inspections may be required by the Illinois Department of Public Health, Village of Lincolnshire, Lincolnshire/Riverwoods Fire Department, Lake County Health Department, and any other governments having jurisdiction. Twenty-four (24) hour notice will be the minimum standard in notifying these organizations and Erickson Construction LLC that work is ready for inspection. Comply with all requirements and requests of the local governing authorities.
10. Adhere to and maintain at a minimum, the OSHA safety standards for the entire duration of the project. The Erickson Construction LLC safety program exceeds OSHA standards in some cases and shall be followed. This program is included in the Bid Documents Disc and is the minimum benchmark for safety. Subcontractors are to review and complete the Erickson Construction, LLC Subcontractor Safety Handbook prior to the start of any construction.
11. This Subcontractor shall be responsible for the repair of any damage to existing utilities and utility structures that are damaged as a result of their work.
12. This subcontractor must weigh or tie down all materials subject to high winds before leaving jobsite for the day, every day.
13. This Subcontractor shall have a responsible representative attend the weekly construction coordination meeting held on site by Erickson Construction LLC. The meeting day and time will be determined at the Preconstruction Meeting. This meeting is mandatory for all Subcontractors on site. The responsible representative must be able to talk to the schedule, provide delivery dates, make decisions, and make commitments for their work and their Subcontractors work.
14. This subcontractor must clean work areas daily and place debris into dumpsters provided by Erickson Construction, LLC. Burning of debris of any kind will not be permitted. If any contractor fails to provide daily clean-up, Erickson Construction LLC will perform the clean-up. The negligent contractor will be charged the associated costs for the clean-up. Subcontractor includes daily cleanup of debris generated by this work, to dumpsters provided by Erickson Construction. Wash out, etc. should be placed in areas designated by Erickson Construction LLC. Removal of the wash out to dumpsters is included. This subcontractor is aware that the campus is in operation and will maintain a clean site through out the progress of their work. This subcontractor will continuously reinforce this stipulation with their tradesmen. Leaving trash in, or around the jobsite will not be tolerated.

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15. Once Erickson Construction, LLC starts final cleaning of the building, Subcontractors who dirty the project will be responsible for all re-cleaning costs associated with their work.
16. Maintain streets and parking lots adjacent to the site in a clean and safe condition. Keep streets and parking lots free of dirt and debris. Each contractor shall be responsible for any and all street cleanup as required as a result of his work.
17. Subcontractors shall comply with the Village of Lincolnshire Noise Ordinances. This subcontractor is aware that no exterior construction work is to start before 7 a.m. This includes no machinery, such as cranes forklifts and boom-lifts starting up prior to 7 a.m. Work hours for all trades will only be permitted on Monday through Friday from 7 a.m. to 3:30 p.m. All Saturday, Sunday and work after 3:30 p.m. must be pre approved by Erickson Construction prior to the overtime work being performed. Deliveries of material and equipment must comply with these scheduled work hours.
18. All Work to be performed while on the Sedgebrook Campus existing buildings and grounds shall:
 - a. Not create an unsafe condition
 - b. Maintain fire exiting from all buildings at all times
 - c. Not create excessive dust and/or noise
 - d. Be cleaned up at the end of the day
19. Subcontractor shall instruct his employees, each Sub-Subcontractor's employees, and all deliverymen to behave in a manner appropriate to the community environment. Language and/or action which might be considered offensive to the staff or residents will not be tolerated. The contractor shall take all possible measures to ensure that proper behavior is maintained.
20. Smoking and eating will not be permitted at any time in any Erickson Construction, LLC buildings under construction. Radio playing will not be permitted at any time. This includes personal stereo headphones.
21. All storage and handling of on-site materials must be coordinated and approved by Erickson Construction LLC All materials shall be set on cribbing so as not to expose the materials to mud, dirt, and debris. All material delivered to the site shall be protected from weather at all times and shall be received and stored at the jobsite in an approved manner as established by Erickson Construction. No storage facilities or watchmen will be provided by Erickson Construction LLC or Owner. Subcontractors are responsible for the protection, storage and security of their own materials and equipment.
22. Subcontractors are responsible for maintaining a record set of approved shop drawings which are to be turned over to Erickson Construction LLC a minimum of four (4) weeks prior to completion of the project. The Architect, Erickson Construction, LLC and Owner will NOT maintain the record set of shop drawings.
23. Any subcontractor who disturbs the site fence is responsible for returning it to original or better than original condition. The site fence cannot be removed without prior permission from Erickson Construction LLC
24. When others provide materials or equipment for Subcontractor installation, the Subcontractor shall receive, unload, store inventory, protect, and install provided material or equipment in "new" condition. The receiving contractor shall note all shortages, damages, and irregularities on the original delivery receipt. Subcontractors will be held responsible for all shortages not documented on delivery.
25. Any contractor working on the roof shall provide protection to prevent damage to that roof. Any contractor that damages the roof shall be responsible for repairing that damage.
26. The Continuation Sheet AIA Form G703, Schedule of Values shall list the following contract requirements and corresponding values:
 - a. Safety
 - b. Cleanup
 - c. Submittals - Complete
 - d. Mobilization / Demobilization
 - e. Insurance
 - f. Bonds
 - g. Overhead and Profit shall be included in each Line Item.

EC: J Sub: Ja

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EC: Sub:

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41. This Subcontractor shall be responsible for all construction means, methods, techniques, sequences, procedures and coordination for all portions of their work, including safety under this agreement. This subcontractor is aware of the safety ticket program as follows: "This Subcontractor is to provide adequate and proper safety protection for its personnel and equipment and shall strictly comply with all the rules and regulations of the Federal Occupational Safety and Health Act, all other applicable health and safety laws and regulations, and of the Erickson Construction Safety Program. Hard hats, thick soled shoes (not sneakers), full length pants and shirts are to be worn by all personnel employed on the job by this Subcontractor at all times. Payments may be withheld in the form of fines for violations. Accidents to personnel of this Subcontractor, no matter how minor, will be promptly reported in detail to the Project Superintendent and/or site safety officer within twenty four (24) hours of the incident. Photographs must be taken by the Subcontractor of the accident location and copies of those and all applicable hospital reports must be submitted. Fines levied by Erickson Construction, LLC. Due to acts of this Subcontractor for failure to comply with the safety regulations and requirements of OSHA and all other applicable health and safety laws and regulations, will be paid by this Subcontractor or deducted from its Subcontract amount as described elsewhere in the Subcontract. This Subcontractor and its sub-subcontractors may be required to provide a copy of its Safety Program to the Project Superintendent prior to commencing work at the project site. No cost extras or time extensions will be recognized for failure to meet the requirement."
42. Subcontractors are aware of the storm water detention west of the jobsite. Subcontractors will take steps to not allow construction materials into the lake. Subcontractors' tradesmen will be made aware of the lake in the subcontractor's provided safety training. Additionally, subcontractors will not store any chemicals not in use on the jobsite to prevent spilling these chemicals into the storm water detention.
43. This subcontractor is aware that all submittals and invoices are to be sent to the Erickson Construction, LLC office at 20 Riverside Road, Lincolnshire, IL 60069.
44. This Subcontractor shall not install signs, or other advertising, on fencing or buildings around the project except those specifically required for safety or traffic purposes. Subcontractor is limited to one sign on their construction trailer; this sign shall be reasonably sized and shall not project above such trailer. Any and all signs are subject to Erickson Construction's approval.
45. This Subcontractor shall make all necessary arrangements and directly pay all costs related to repairs, rework, etc. caused by the subcontractor's work. Prior to any repairs, re-work, etc. being made on Subcontractor's behalf, Subcontractor shall be given 48 hours notice in writing to allow Subcontractor to witness alleged damages, and if in agreement as to his responsibility for such damages, to have the opportunity to effect such repairs himself, or have the opportunity to record work on his behalf for which he will be financially responsible. NOTE: 48 hours shall be construed to mean two working days, exclusive of weekends or holidays.
46. This subcontractor is to provide all required lifts, cranes, ladders, etc. for own work. Furnish all vertical and horizontal hoisting required for the entire HVAC installation. Erickson Construction will not provide a hoist on the building. This Subcontractor shall furnish labor and material and equipment to erect, dismantle and install any scaffold required to complete this Subcontractor's Insurance requirements as outlined in the attached "Certificates of Insurance - General Requirements" memo are included in this subcontract.
47. This subcontractor will require all sub-subcontractors to provide identical insurance to that required by the subcontractor.
48. This subcontractor includes all associated required insurance with the additional insureds' listed below:
- Erickson Construction LLC, Erickson Retirement Communities LLC, Lincolnshire Campus LLC, Sedgebrook, Inc., and all subsidiary companies, members, directors, agents, officers, employees, and partners thereof
 - Sovereign Bank (Lender)
 - Wallace Roberts Todd, LLC. (Architects/Engineers)
 - Charles B. Tomlinson Jr. AIA (Architects/Engineers)
 - O'Donnell and Naccarato Engineers (Structural Engineer)
 - GHT Chartered (Mechanical Engineers)
 - V3 Consultants (Civil Engineer)
 - TVA Fire & Life Safety, Inc. (Fire Protection Consultant)

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All additional insureds must be listed on the Certificate of Liability Insurance.

All additional insureds must be listed on the required endorsement forms.

Coverage must be provided for ongoing and completed operations. Acceptable endorsement forms are the ISO CG2010 07-04 and ISO CG2037 07-04, or other forms that are equivalent in coverage to these.

Policy number must be listed on the endorsement forms.

Coverage must be provided on a primary and non-contributory basis regardless of other insurance purchased by additional insureds. Proof of primary and non-contributing coverage must be provided.

The certificate must include language to indicate that "These policies are not limited by residential construction exclusions regarding any and all work performed under the agreement."

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EXHIBIT "C"

SUBCONTRACTOR SCHEDULE OF VALUES

1. Subcontractor agrees to perform the Work in accordance with the terms and provisions of the Subcontract and in accordance with the Contract Documents. Subcontractor shall perform the Work as detailed and in accordance with the Subcontract Analysis for the sum of \$113,400.00.

Terrace Level Ceilings (including kitchen).....	\$ 22,700.00
First Floor Ceilings	\$ 33,000.00
Second Floor Ceilings	\$ 24,000.00
Third Floor Ceilings	\$ 24,000.00
Egg Crate	\$ 300.00
Pre-hang Wires	\$ 9,400.00

TOTAL **\$ 113,400.00**

Sub: Just-Rite Acoustics
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Exhibit "D.1"
Instructions for "Exhibit D"

Subcontractors/Suppliers shall submit attached Application and Certificate for Payment (Exhibit D) for payment processing to:

ERICKSON CONSTRUCTION, L.L.C.
20 Riverside Rd.
Lincolnshire, IL, 60069

ATTN: Project Manager, Pete Szpak

Your application for payment, using the attached Application and Certificate for Payment (Exhibit D) form, must be fully completed, and must be in our office at the above address *no later than the 20th of the month.*

If your Application and Certificate for Payment is not fully completed and received in our office, at the above address *by the 20th of the month*, your payment will be delayed until the following month's payment cycle.

Sub: Just-Rite Acoustics
Code: 517EC10 - 48400-095100

EXHIBIT "D"
APPLICATION AND CERTIFICATE FOR PAYMENT

TO: **ERICKSON CONSTRUCTION, LLC**
703 Maiden Choice Lane
Baltimore, MD 21228

DATE:

PROJECT: 517EC10
JOB: Renaissance Garden Phase 1 EC1.0
APPLICANT NO.:
PERIOD TO:

FROM: Just-Rite Acoustics

1. Original Contract Amount	\$
2. Change Orders Issued to Date (Thru C.O. #)	\$
3. Contract Sum to Date (Line 1+2)	\$
4. Total Completed & Stored to Date	\$
5. Less Retainage (%)	\$
6. Total Earned to Date Less Retainage (Line 4-5)	\$
7. Less Previous Retentions	\$
8. Payment Due This Period (Line 6-7)	\$

SUBCONTRACTORS AFFIDAVIT & RELEASE OF LIEN:

The undersigned Subcontractor certifies; (i) that the work for which this payment request is being submitted has been completed in accordance with the Contract Documents; (ii) that it has paid its employees, sub-subcontractors, and material suppliers for all work and material for which Erickson Construction has paid previous requests for payment; (iii) that the amount of this invoice is due.

CONTRACTOR: By: _____ Date: _____
(Officer, General Partner, or Owner)

Note: Payment will be made for only those costs which are included as part of the Original Contract amount or for which a Change Order has been issued by Erickson Construction L.L.C. Please provide a list of any outstanding claims for additional costs or pending extras.

NOTES:

TO BE COMPLETED BY PROJECT MANAGER

RETAINAGE RELEASE	\$
PROGRESS BILLING	\$
RETAINAGE HELD	\$
TOTAL AMOUNT DUE	\$
PROJECT NUMBER	517EC10
COST CODE #	48400-095100
APPROVED BY	
APPROVED DATE	

FINAL PAYMENT	
PUNCH LIST COMPLETED	<input type="checkbox"/> YES <input type="checkbox"/> NO
WARRANTY COMPLETED	<input type="checkbox"/> YES <input type="checkbox"/> NO
ATTIC STOCK DELIVERED	<input type="checkbox"/> YES <input type="checkbox"/> NO
O&M (CLOSEOUT BOOK - DEL)	<input type="checkbox"/> YES <input type="checkbox"/> NO
CHANGE ORDERS COMPLETED	<input type="checkbox"/> YES <input type="checkbox"/> NO

FOR ACCOUNTING USE ONLY	
DATE RECEIVED	
REVIEWED BY	

Sub: Just-Rite Acoustics
* Code: 517EC10 - 48400-095100

EXHIBIT "E1" & "F1"
Instructions for Exhibits E & F

Subcontractors/Suppliers shall submit attached Partial Release of Liens (Exhibit E) and Final Release of Liens (Exhibit F) for payment processing to:

ERICKSON CONSTRUCTION, L.L.C.
Corporate Office
991 Corporate Blvd
Linthicum Heights, Maryland 21090
Attn: Contract Administrator

EXHIBIT E - PARTIAL RELEASE OF LIENS

The attached Partial Release of Liens (Exhibit E) form must be fully completed, properly executed by a authorized Corporate Officer or Owner/ Proprietor with Original Signatures, Notarized, and must be in our office at the above address no later than the last day of the month.

If your Partial Release of Liens (Exhibit E) is not fully executed and received on a timely basis, i.e. no later than the last day of the month, previous payment not covered by a current waiver of lien will be deducted from your expected payment.

EXHIBIT F - FINAL RELEASE OF LIENS

The attached Final Release of Liens (Exhibit F) form must be fully completed, properly executed by a authorized Corporate Officer or Owner/Proprietary with original signatures, Notarized, and must be in our office at the above address no later than the last day of the month or at issuance of Final Payment. **No Final Payments will be issued until Final Release of Liens is in hand.**

Sub: Just-Rite Acoustics
Code: 517EC10 - 48400-095100

EXHIBIT "E"

Partial Lien Waiver

STATE OF ILLINOIS)

) SS

COUNTY OF LAKE)

To Whom It May Concern:

WHEREAS the undersigned has been employed by _____ to furnish _____ for the premises known as _____ of which _____ is the Owner,

THE undersigned, for and in consideration of _____ (\$ _____) Dollars, and other good and valuable consideration, the receipt of which is hereby acknowledged, do(es), to the fullest extent permitted by law, hereby waive and release and all lien or claim of, or right to, lien, under the statutes of the State of Illinois, relating to mechanics' liens, with respect to and on said above-described premises, and the improvements thereon, and on the material, fixtures, apparatus or machinery furnished, and on the money, funds or other considerations, due or to become due from the Owner, on account of labor services, material, fixtures, apparatus or machinery, heretofore furnished, to this date only, by the undersigned for the above-described premises.

DATED: _____ COMPANY: _____
ADDRESS: _____

SIGNATURE AND TITLE: _____

Note: All waivers must be for the full amount paid. If a waiver is for a corporation, corporate name should be used, the title of officer signing waiver should be set forth; if waiver is for a partnership, the partnership name should sign and designate him/herself as a partner.

CONTRACTOR'S AFFIDAVIT

To Whom It May Concern:

THE undersigned, being duly sworn, deposes and says that he is _____ of the _____ (name of company) who is the contractor for the _____ work on the building located at _____ owned by _____

That the total amount of the contract including extras is \$ _____ on which he has received payment of \$ _____ prior to this payment. That all waivers are true, correct and genuine and delivered unconditionally and that there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names of all parties who have furnished material or labor, or both, for said work and all parties having contracts or subcontracts for specific portions of said work or for material entering into the construction thereof and the amount due or to become due to each, and that the items mentioned include all labor and material required to complete said work according to plans and specifications:

NAMES	WHAT FOR	CONTRACT PRICE	AMOUNT PAID	THIS PAYMENT	BALANCE


TOTAL LABOR AND MATERIAL TO COMPLETE _____

That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor or other work of any kind or to be done upon or in connection with said work other than above stated.

Signed this _____ day of _____, 200____ Signature: _____

Subscribed and sworn to before me this _____ day of _____, 200____

Signature: _____

EC:  Sub: 16

Sub: Just-Rite Acoustics
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EXHIBIT "F"

Final Lien Waiver

STATE OF ILLINOIS)

) SS

COUNTY OF LAKE)

To Whom It May Concern:

WHEREAS the undersigned has been employed by _____ to furnish _____ for the premises known as _____ of which _____ is the Owner,

THE undersigned, for and in consideration of _____ (\$ _____) Dollars, and other good and valuable consideration, the receipt of which is hereby acknowledged, do(es) hereby waive and release and all lien or claim of, or right to, lien, under the statutes of the State of Illinois, relating to mechanics' liens, with respect to and on said above-described premises, and the improvements thereon, and on the material, fixtures, apparatus or machinery furnished, and on the money, funds or other considerations, due or to become due from the Owner, on account of labor services, material, fixtures, apparatus or machinery, heretofore furnished, or which may be furnished at any time hereafter, by the undersigned for the above-described premises.

DATED: _____ COMPANY: _____
ADDRESS: _____

SIGNATURE AND TITLE: _____

Note: All waivers must be for the full amount paid. If a waiver is for a corporation, corporate name should be used, the title of officer signing waiver should be set forth; if waiver is for a partnership, the partnership name should sign and designate him/herself as a partner.

CONTRACTOR'S AFFIDAVIT

To Whom It May Concern:

THE undersigned, being duly sworn, deposes and says that he is _____ of the _____ (name of company) who is the contractor for the _____ work on the building located at _____ owned by _____

The undersigned, for and in consideration and upon payment in seven business day, of the sum of _____ Dollars (\$ _____), and other good and valuable consideration, does hereby certify that the work referred to on the reverse side has been fully performed to the customer's full satisfaction. Furthermore, to the extent permitted by law, the undersigned, does hereby waive and release any and all lien or claim of, or right to, lien, under the statutes of the State of ILLINOIS, relating to the mechanics' and/or materialmen's liens, with respect to and on Premises, and on other material, fixtures, goods, apparatus or machinery furnished, on account of labor, services, materials, fixtures, goods, apparatus or machinery, furnished to this date only by the undersigned, for the Premises, without prejudice to assert any right of lien as to future delivery, performance or furnishing.

NAMES	WHAT FOR	CONTRACT PRICE	AMOUNT PAID	THIS PAYMENT	BALANCE

TOTAL LABOR AND MATERIAL TO COMPLETE

That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor or other work of any kind or to be done upon or in connection with said work other than above stated.

Signed this _____ day of _____, 200_. Signature: _____

Subscribed and sworn to before me this _____ day of _____, 200_.
Signature: _____

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EXHIBIT "G1"
Instructions for Exhibit "G"

ERICKSON CONSTRUCTION, LLC.
Corporate Office
991 Corporate Blvd.
Linthicum, Maryland 21090
Attn: Accounts Payable Clerk

EXHIBIT G - VENDOR/TIER SUBCONTRACTOR LIST

The attached Vendor/Tier Subcontractor List (Exhibit G) from must be fully completed, properly executed by authorized Corporate Officer or Owner/Proprietor with Original Signatures, Notarized and must be in our office at the above address no later than the 20th day of the month.

If you Vendor/Tier Subcontractor list (Exhibit G) is not fully executed and received on a timely basis, i.e. no later than the 20th day of the month, previous payment not covered by a current waiver of lien will be deducted from your expected payment.

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EXHIBIT "G"

Vendor/Tier Subcontractor List

Please identify below on the spaces provided the names of all tier subcontractors and/or vendors who will supply materials and/or services whose value will exceed \$1,000.00 to the referenced project, the contact person, addresses and telephone numbers for each.

Company Name _____
Contact _____
Address _____
Telephone _____
Fax _____

Company Name _____
Contact _____
Address _____
Telephone _____
Fax _____

Company Name _____
Contact _____
Address _____
Telephone _____
Fax _____

Company Name _____
Contact _____
Address _____
Telephone _____
Fax _____

Company Name _____
Contact _____
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Company Name _____
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Company Name _____
Contact _____
Address _____
Telephone _____
Fax _____

Company Name _____
Contact _____
Address _____
Telephone _____
Fax _____

Company Name _____
Contact _____
Address _____
Telephone _____
Fax _____

Sub: Just-Rite Acoustics
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EXHIBIT "H" Schedule B INSURANCE

Subcontractor shall obtain insurance of the types and in the amounts described below:

TYPE OF COVERAGE	AMOUNT OF COVERAGE (LIMITS)
<u>AD.1 Worker's Compensation</u> <u>Employer's Liability</u>	Statutory Limits (set by states) Bodily Injury by Accident = \$100,000. Ea. Accident Bodily Injury by Disease = \$500,000. Policy Limit Bodily Injury by Disease = \$100,000. Ea. Employee
<u>AD.2 Commercial General Liability:</u> written on ISO occurrence form and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). <u>The policy must not be limited by Residential construction exclusions that are applicable to the work performed under this agreement.</u>	<u>Occurrence Form, minimum required limits:</u> General Aggregate Limit (other than Products/Completed Operations): \$1,000,000. Products/Completed Operations Aggregate Limit: \$1,000,000. Each Occurrence Limit: \$1,000,000. Personal Injury & Advertising Injury Limit: \$1,000,000. Contractual Liability: \$1,000,000.
<u>AD.3 Business Auto Liability:</u> covering any automobile, including hired and non-owned auto's	<u>Minimum required limits:</u> Bodily Injury Each Person: \$1,000,000. Bodily Injury Each Accident: \$1,000,000. Property Damage Each Accident: \$1,000,000. Or, \$1,000,000. combined bodily injury and property damage each accident limit for all of the above
<u>AD.4 Commercial Umbrella Insurance Policy:</u> or Excess Liability coverage applicable to Employers Liability, General Liability, and Automobile Liability and meeting at least the same coverage requirements under each as stated above.	<u>Occurrence Form, minimum required limits:</u> \$4,000,000. each occurrence \$4,000,000. aggregate
<u>AD.5 Property Insurance:</u> covering all personal property including rented, leased or borrowed tools and equipment brought on site by Subcontractor. Subcontractor hereby waives all right of recovery against Contractor, its parent company, Owner, and Operator for loss or damage to such property however caused.	Replacement Cost or Actual Cash Value

(*Refer to Article 12.1.2 for additional insured requirements.)

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

JUST RITE ACOUSTICS, INC., an Illinois
corporation,

Plaintiff,

v.

Case No.

LINCOLNSHIRE CAMPUS, LLC, a
Maryland limited liability company;
ERICKSON RETIREMENT
COMMUNITIES, LLC, a Maryland
limited liability company; SEDGEBROOK,
INC., an Illinois not-for-profit corporation;
MANUFACTURERS AND TRADERS
TRUST COMPANY, as Bond Trustee, a
national banking corporation; ERICKSON
CONSTRUCTION, LLC, an Illinois
limited liability company; and UNKNOWN
OWNERS AND NON-RECORD
CLAIMANTS,

Defendants.

VERIFIED COMPLAINT
TO FORECLOSE MECHANICS LIEN AND FOR OTHER RELIEF

JUST RITE ACOUSTICS, INC. (APlaintiff@), by and through its attorney, Mark J. Rose,

complains as follows:

COUNT I B MECHANICS LIEN FORECLOSURE

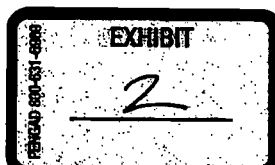
As and for a first cause of action, Plaintiff respectfully states as follows:

1. Plaintiff files this *Verified Complaint to Foreclose Mechanics Lien and for Other*

Relief and joins the following parties as Defendants:

LINCOLNSHIRE CAMPUS, LLC ("Lincolnshire");

ERICKSON RETIREMENT COMMUNITIES, LLC ("Erickson Retirement");



SEDGEBROOK, INC. ("Sedgebrook");

**MANUFACTURERS AND TRADERS TRUST COMPANY, as Bond Trustee,
("M&T");**

ERICKSON CONSTRUCTION, LLC ("Erickson Construction"); and

UNKNOWN OWNERS AND NON-RECORD CLAIMANTS.

2. Plaintiff is an Illinois corporation which is engaged in the business of installing acoustical ceiling and related interior building materials having its principal place of business at 1501 Estes Avenue, Elk Grove Village, Illinois 60007.

3. Lincolnshire is the legal title holder in fee simple to the premises commonly known as Renaissance Gardens at Sedgebrook located at 20 Riverside Road, Lincolnshire, Illinois (the "Premises"), the legal description of which is as follows:

Lot 1 in Sedgebrook Subdivision, being a subdivision of part of the Southeast ¼ of Section 22 of the Southwest ¼ of Section 23 and of the Northwest ¼ of Section 26 and of the Northeast ¼ of Section 27, all in Township 43 North, Range 11 East of the Third Principal Meridian in the County of Lake in the State of Illinois

Permanent Tax Identification Nos.: 15-23-302-001 and 15-22-406-001

4. Upon information and belief, Erickson Retirement is the managing member of Lincolnshire and was the developer of a residential senior citizen assisted living community at the Premises. Upon further information and belief, Sedgebrook operates the residential senior citizen assisted living community at the Premises.

5. Upon further information and belief, Sedgebrook also has an interest in the Premises by reason of a mortgage granted to it to secure the payment of a loan made to Lincolnshire. Upon further information and belief, M&T also has an interest in the Premises by reason of a mortgage granted to it to secure the payment of a loan made to Lincolnshire.

6. On or about November 1, 2007, Lincolnshire, as owner of the Premises, and Erickson Construction, as original contractor, entered into a written agreement under which Erickson Construction agreed to provide general contracting services in connection with the construction of an improvement for and upon the Premises, all in accordance with certain plans, drawings and specifications prepared for that purpose and made a part of said agreement. Plaintiff does not have a copy of such agreement.

7. On or about May 1, 2008, Erickson Construction, as original contractor, entered into a certain *Subcontract between Contractor and Subcontractor* ("Subcontract") with Plaintiff, as subcontractor, under which Plaintiff agreed to provide Erickson Construction with labor and materials in connection with the installation of acoustical ceilings at the Premises and Erickson Construction agreed to pay Plaintiff the amount of \$113,400.00. A copy of such Subcontract is attached hereto and made a part hereof as Exhibit "A."

8. At Erickson Construction's instance and request, Plaintiff also provided additional labor and materials in connection with the installation of acoustical ceilings at the Premises totaling \$3,900.00 which such work was not called for under the parties' original Subcontract. Plaintiff was requested to perform this additional work with the knowledge and consent of Lincolnshire. Copies of such written change orders evidencing Plaintiff's authorization to perform the additional work are attached hereto and made a part hereof as Group Exhibit "B."

9. In accordance with the foregoing Subcontract (Exhibit "A") and the foregoing change orders (Group Exhibit "B"), between on or about May 20, 2008 and on or about June 3, 2009, Plaintiff furnished Erickson Construction with all of the labor and materials called for under the Subcontract. Plaintiff also furnished Erickson Construction with statements of account itemizing the

amounts due Plaintiff. A copy of such statements of account are attached hereto and made a part hereof as Group Exhibit AC.”

10. All of the labor and materials which were furnished by Plaintiff were incorporated in the said improvement and constitute a permanent and valuable improvement of the Premises.

11. The agreed and reasonable value of the labor and materials furnished by Plaintiff to Erickson Construction under the Subcontract and under the change orders was \$117,300.00.

12. Plaintiff only has received payment in the amount of \$63,900.00, leaving an unpaid balance of \$53,400.00 due and owing to Plaintiff. By reason of the non-payment of such sum, Plaintiff is entitled to and does claim a mechanics lien against the Premises for the amount due it.

13. On August 13, 2009, Plaintiff mailed by certified mail, return receipt requested, a *Mechanics Lien Claim* to Lincolnshire, Erickson Retirement, Sedgebrook and M&T. A true and accurate copy of Plaintiff=s *Mechanics Lien Claim* is attached hereto and made a part hereof as Exhibit AD.” Copies of the return receipts evidencing such mailings are attached hereto and made a part hereof as Group Exhibit AE.”

14. On August 21, 2009, Plaintiff recorded its *Mechanics Lien Claim* with the Lake County Recorder of Deeds as Document #6513490.

15. The Premises also are subject to the interests of unknown owners and non-record claimants, the nature of whose interests are unknown.

16. The interests of the claimants described in paragraphs 4, 5 and 15 hereinabove are subject, subordinate and inferior to Plaintiff=s rights.

WHEREFORE, Plaintiff JUST RITE ACOUSTICS, INC. prays for the entry of an Order:

- a) Finding that Plaintiff is entitled to a mechanics lien with respect to the Premises for the amount due it;

- b) Appointing a receiver for the Premises;
- c) Directing that, in case of non-payment of the amount found due to Plaintiff within the period called for under the judgment, the Premises be sold to satisfy such amount, interest and costs;
- d) Directing that all attorney's fees which are incurred by Plaintiff in bringing this action be assessed against **LINCOLNSHIRE CAMPUS, LLC** in accordance with the provisions of 770 ILCS 60/17(b) based on its failure to pay Plaintiff without just cause or right;
- e) Directing that, in case of such sale and failure to redeem therefrom pursuant to law, **LINCOLNSHIRE CAMPUS, LLC** and all persons claiming through and/or under it be forever barred and foreclosed of all right to equity of redemption in the Premises;
- f) Directing that, in case the sale does not produce enough proceeds to pay Plaintiff's claim, Plaintiff be awarded a money judgment against the Defendants personally liable; and
- g) For such further relief as to the Court shall seem just and proper.

COUNT II B BREACH OF CONTRACT

As and for a second cause of action, Plaintiff respectfully states as follows:

1. Plaintiff is an Illinois corporation engaged in the business of installing acoustical ceiling and related interior building materials with its principal place of business at 1501 Estes Avenue, Elk Grove Village, Illinois 60007.

2. Erickson Construction is a Maryland corporation registered with the Illinois Secretary of State as a foreign limited liability company which is engaged in the business of furnishing construction services to the public. Erickson Construction has its principal place of business at 703 Maiden Choice Road, Baltimore, Maryland 21228.

3. On May 1, 2008, Erickson Construction entered into a *Subcontract Between Contractor and Subcontractor* ("Subcontract") with Plaintiff, as subcontractor, whereunder

Plaintiff agreed to furnish various labor and materials in connection with the installation of acoustical ceilings at the property commonly known as Renaissance Gardens at Sedgebrook located at 20 Riverside Road, Lincolnshire, Illinois (the "Premises") and Erickson Construction agreed to pay Plaintiff the amount of \$113,400.00. A copy of such Subcontract is attached hereto and made a part hereof as Exhibit "A."

4. At Erickson Construction's instance and request, Plaintiff also provided additional labor and materials in connection with the installation of acoustical ceilings at the Premises totaling \$3,900.00 which such work was not called for under the parties' original Subcontract. Plaintiff was requested to perform this additional work with the knowledge and consent of Lincolnshire. Copies of such written change orders evidencing Plaintiff's authorization to perform the additional work are attached hereto and made a part hereof as Group Exhibit "B."

5. In accordance with the foregoing Subcontract (Exhibit "A") and the foregoing change orders (Group Exhibit "B"), Plaintiff furnished Erickson Construction with various labor and materials in the description and amount set forth in the Subcontract and the change orders and for the amounts set forth on the statements of account which are attached hereto and made a part hereof as Group Exhibit "C."

6. The agreed and reasonable value of the labor and materials furnished by Plaintiff to Erickson Construction under the Subcontract and under the change orders was \$117,300.00.

7. Plaintiff only has received payment in the amount of \$63,900.00, leaving an unpaid balance of \$53,400.00 due and owing to Plaintiff.

8. Plaintiff has made repeated requests and demands for payment upon Erickson Construction. Despite these repeated requests and demands for payment, however, Erickson Construction has failed and refused to pay Plaintiff.

9. Plaintiff has performed any and all conditions precedent required to be performed by it under its agreement with Erickson Construction.

10. Erickson Construction is in default of its agreement to pay Plaintiff the outstanding balance of \$53,400.00 owed to Plaintiff under the Subcontract (Exhibit "A"), under the change orders (Group Exhibit "B") and under the statements of account (Group Exhibit "C") and Plaintiff has been damaged in the amount of such outstanding balance.

11. Based on Erickson Construction's unreasonable and vexatious delay in payment, pursuant to 815 ILCS 205/2 (2008), Plaintiff also is entitled to recover pre-judgment interest from Erickson Construction at the rate of five percent (5.00%) per annum from the date of Plaintiff's unpaid statements of account.

WHEREFORE, Plaintiff **JUST RITE ACOUSTICS, INC.** prays for the entry of an Order granting it a judgment against Defendant **ERICKSON CONSTRUCTION, LLC** in the amount of \$53,400.00; awarding Plaintiff prejudgment interest at the rate of five percent (5.00%) per annum from the date of Plaintiff's unpaid invoices (Group Exhibit "C") based on Erickson Construction's unreasonable and vexatious delay in payment; awarding Plaintiff its costs and attorney's fees in bringing this action; and for such further relief as to the Court shall seem just and proper.

JUST RITE ACOUSTICS, INC.

By: _____

Its Attorney

#51243

Mark J. Rose, Esq.

LAW OFFICES OF MARK J. ROSE

200 West Adams Street, Suite 2850

Chicago, Illinois 60606

312.704.1446

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

VERIFICATION

I, Brad Swaback, being first duly sworn, depose and state that I am the Vice-President of JUST RITE ACOUSTICS, INC.; that I have reviewed the statements contained in the foregoing *Verified Complaint to Foreclose Mechanics Lien and for Other Relief*; and that such statements are accurate and true, including all statements based on information and belief.

BRAD SWABACK

Subscribed and sworn to
before me this _____ day
of August, 2009.

Notary Public

#51243
Mark J. Rose, Esq.
LAW OFFICES OF MARK J. ROSE
200 West Adams Street, Suite 2850
Chicago, Illinois 60606
312.704.1446

Northern District of Texas Claims Register

09-37016-sgj11 Erickson Construction, LLC

Judge: Stacey G. Jernigan

Chapter: 11

Office: Dallas

Last Date to file claims: 02/28/2010

Trustee:

Last Date to file (Govt):

Creditor: (13025155) Just Rite Acoustics, Inc. c/o Michelle E. Shriro, Esq Singer & Levick, P.C. 16200 Addison Rd. #140 Addison, TX 75001	Claim No: 5 <i>Original Filed</i> Date: 02/23/2010 <i>Original Entered</i> Date: 02/23/2010	Status: <i>Filed by:</i> CR <i>Entered by:</i> Shriro, Michelle <i>Modified:</i>
Unsecured claimed: \$53400.00 Total claimed: \$53400.00		
History: <u>Details</u> <u>5-1</u> 02/23/2010 Claim #5 filed by Just Rite Acoustics, Inc., total amount claimed: \$53400 (Shriro, Michelle)		
Description: (5-1) Goods provided		
Remarks:		

Claims Register Summary

Case Name: Erickson Construction, LLC

Case Number: 09-37016-sgj11

Chapter: 11

Date Filed: 10/19/2009

Total Number Of Claims: 1

	Total Amount Claimed	Total Amount Allowed
Unsecured	\$53400.00	
Secured		
Priority		
Unknown		
Administrative		
Total	\$53400.00	\$0.00