

ATTACHMENT F
COLORADO RIDER TO BNBUILDERS AIA A401 – 2017
STANDARD FORM OF AGREEMENT BETWEEN
CONTRACTOR AND SUBCONTRACTOR

This Colorado Rider (“**Rider**”) is attached to and made part of the Standard Form of Agreement Between Contractor and Subcontractor by and between BNBuilders, Inc. (“**Contractor**”), and _____ (“**Subcontractor**”) dated _____ (“**Effective Date**”) for the _____ Project (herein after the “**Agreement**”). In the event of any conflict between the provisions of this Rider and the provisions of the Agreement, including all Contract Documents thereto, the provisions of this Rider shall control. Unless otherwise specified, all capitalized terms herein shall have the meaning set forth in the Agreement.

1. Section 4.8 is hereby deleted and replaced in its entirety with the following:

§ 4.8 Indemnification

§ 4.8.1 To the fullest extent permitted by law, the Subcontractor agrees to be responsible for and shall release, defend, indemnify, and hold harmless the Contractor, the Project Owner, any entities Contractor is required to indemnify in the Prime Contract, and agents, representatives, employees, volunteers, officers, managers, affiliates, parent companies, principals, board members, and directors of any of them (collectively “**Indemnified Parties**”) for, from, and against costs, claims, actions, causes of action, damages, liabilities, losses, liquidated damages, fines, penalties, and expenses, including but not limited to attorneys’ and expert fees in the defense of such claims or in the enforcement of Subcontractor’s indemnity obligations hereunder (collectively “**Loss**”) arising out of, related to, or resulting from, or allegedly related to or arising from: (i) any negligent act or omission (whether passive or active), or any intentional act or omission in the performance of the Work, or any breach of any provisions of the Subcontract Documents, by the Subcontractor, a Sub-subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by an Indemnified Party indemnified hereunder; (ii) any determination by a court or agency that Subcontractor is not an independent contractor or that Owner or Contractor is the employer or a joint employer of any of Subcontractor’s or any Sub-subcontractor’s employees or personnel; (iii) any matters for which Subcontractor provides indemnification under the terms of the Subcontract Documents; (iv) any claim, action, suit or proceeding by Subcontractor’s or Sub-subcontractors employees, including but not limited to workers’ compensation, unemployment and wage-and-hour claims, (v) Infringement of any patent rights, which may be brought against the Contractor or Owner arising out of Subcontractor’s Work; and (vi) any violation or infraction by Subcontractor of any law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, including, but not limited to, the use of Contractor’s or others’ equipment, hoists, elevators, or scaffolds.. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to an Indemnified Party described in this Section 4.8. Notwithstanding anything in this Section 4.8 or the Subcontract Documents to the contrary, Subcontractor is not required to indemnify, insure, or defend in litigation any Indemnified Party against liability for damage arising out of death or bodily injury to persons or damage to property caused by the negligence or fault of such Indemnified Party or any third party under the control or supervision of the Indemnified Party.

§ 4.8.2 With regard to the indemnity and defense obligations arising under Section 4.8, such obligations shall arise regardless of whether such Loss is caused in part by the concurrent or partial negligence of an Indemnified Party.

§ 4.8.3 In claims against any person or entity indemnified under this Section 4.8 by an employee of the Subcontractor, a Sub-subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 4.8.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Subcontractor or Sub-subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. For the purposes of the foregoing indemnification provision only and to the fullest extent allowed by applicable law, Subcontractor specifically waives immunity it may be granted under any such worker's compensation, disability benefit acts or other employee benefit acts.

§ 4.8.4 If Contractor's indemnity and/or defense obligation to Owner is broader in any respect than the provisions of this Section 4.8, the Subcontractor agrees to afford Owner and Contractor any such broader relief in addition to the relief afforded in this Section 4.8.

§ 4.8.5 The defense and indemnification obligations in this Section 4.8 shall survive the expiration or earlier termination of the Contract.

2. Section 6.5 is hereby deleted and replaced in its entirety with the following:

§ 6.5 This Agreement shall be governed by the laws of the State of Colorado, without reference to its laws regarding choice of law. To the extent Contractor does not elect to submit any Claim to arbitration, the Parties agree that any appropriate state or federal district court located in Denver, Colorado shall have exclusive jurisdiction over any case, controversy, or dispute arising under or in connection with this Agreement and shall be a proper forum in which to adjudicate such dispute, unless prohibited by applicable state law regarding forum selection. The Parties consent to such jurisdiction for all purposes (both personal and subject matter).

IN WITNESS WHEREOF, the undersigned have executed this Rider as of the Effective Date of the Agreement.

Dated: _____

Dated: _____

Contractor: **BNBuilders, Inc.** _____

Subcontractor: **<Insert Sub Legal Name>** _____

By: _____

By: _____

Title: _____

Title: _____

Contractor's License No.: _____

Contractors UBI No.: _____