

AIA[®] Document A105[®] – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Intracoastal Tower Condominium
1505 N. Riverside Drive
Pompano Beach Florida 33062

and the Contractor:
(Name, legal status, address and other information)

Flack's Painting & Waterproofing Inc. CGC1521737
1000 NE 26th Avenue
Pompano Beach Florida 33062
(954) 786-7535

for the following Project:
(Name, location and detailed description)

Intracoastal Tower Condominium
1505 N. Riverside Drive
Pompano Beach Florida 33062

The Architect:
(Name, legal status, address and other information)

Marcon Forensics
1825 Corporate Blvd NW STE 110
Boca Raton, Florida 33431

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated , and enumerated as follows:

(Table deleted)

(Paragraphs deleted). .4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

- .5 other documents, if any, identified as follows:

Contractors Terms Dated 10/29/2024
Contractors Hurricane Plan

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

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§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement.
(Insert the date of commencement if other than the date of this Agreement.)

Based off execution of contract and permit approval

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:
(Check the appropriate box and complete the necessary information.)

Not later than 270 (Two Hundred and Seventy) Working days from the date of commencement. Due to the difficulty in determining damages for failure to timely complete all Work associated with the terms of the Contract, all parties agree that the Contractor's failure to timely complete all Work, as provided under the Work specifications provided in the Contract, shall subject Contractor to liquidated damages for each day that Work remains incomplete at a daily rate of three-hundred and fifty (\$350.00) Dollars.

By the following date:

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

One Million, Six Hundred Eight, Four Hundred Ninety-One 00/100 (\$ 1,608,491.00). The Contract Sum is based on the scope of work and Contractor agrees to organize, coordinate, administer, supervise, and direct all portions of the Work based upon this sum and the payment schedule set forth in the Contract Documents and/or as agreed upon by the parties in writing, and Contractor assumes all risks and responsibilities for performing all such Work for this amount, subject to written change orders as provided in the Contract Documents. Owner shall not be liable for any cost increases associated with labor that may arise during the course of the Work, unless agreed to in writing

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:
(Itemize the Contract Sum among the major portions of the Work.)

(Table deleted)

Based Bid						
ITEM #	AREA	DESCRIPTION	ESTIMATE D QTY	QTY TYPE	UNIT PRICE	BID AMOUNT
1.0	General Conditions	General Field Condition Requirements (Project Manager, Superintendent, Project Coordinator, Quality Control, Community Notifications, Onsite Office/Storage Facilities and Logistics including Lifts, Scaffolding, Dump Fees, Obtaining permits, travel expenses, etc.), All insurances, Freight, Taxes, Contractors OH & P.	1	LS	\$ 100,000.00	\$ 100,000.00
2.0	Mobilization	N/A	1	LS	\$ 40,000.00	\$ 40,000.00
3.0	Demobilization	N/A	1	LS	\$ 30,000.00	\$ 30,000.00
4.0	Overhead Concrete Slab Repairs	In conjunction with other repairs, restore damaged concrete as specified in the contract documents. Cost to include stucco. Priming and painting are to be included within the Painting Scope of Work.	50	SF	\$ 140.00	\$ 7,000.00
5.0	Top of Slab Concrete Repairs	In conjunction with other repairs, restore damaged concrete as specified in the contract documents. Cost to include coating or paint to match existing.	30	SF	\$ 125.00	\$ 3,750.00
6.0	Edge of Concrete Slab Repairs	In conjunction with other repairs, restore the damaged edge of concrete slab up to 6" wide as specified in the contract documents. Cost to include stucco. Priming	500	LF	\$ 135.00	\$ 67,500.00

7.0	Wall Repairs (Vertical Repairs)	In conjunction with other repairs, restore damaged concrete as specified in the contract documents. Reference the Repair Schedule. Cost to include stucco. Priming and painting are to be included within the Painting Scope of Work.	50	SF	\$ 100.00	\$ 5,000.00
8.0	Partial Concrete Column Repairs	In conjunction with other repairs, restore damaged concrete as specified in the contract documents. Cost to include stucco. Priming and painting are to be included within the Painting Scope of Work.	40	CF	\$ 425.00	\$ 17,000.00
9.0	Epoxy Injection for Crack Repair	In conjunction with other repairs, restore damaged concrete as specified in contract documents. Priming and painting are to be included in the Painting Scope	100	LF	\$ 75.00	\$ 7,500.00
10.0	Crack repair by Gravity Feed	In conjunction with other repairs, restore damaged concrete as specified in contract documents. Priming and painting are to be included in the Painting Scope	200	LF	\$ 48.00	\$ 9,600.00
11.0	Stucco Repair	In conjunction with other repairs, restore damaged stucco as specified on the contract documents. Reference the Repair Schedule. Priming and painting are to be included within the Painting Scope of Work.	2,150	SF	\$ 30.00	\$ 64,500.00
12.0	Stucco Crack Repair	In conjunction with other repairs, restore damaged stucco as specified on the contract documents. Reference the Repair Schedule. Priming and painting are to be included within the Painting Scope of Work.	500	LF	\$ 22.00	\$ 11,000.00
13.0	Shutter Removal, Storage, & Reinstallation	Work includes the removal of existing shutters and previous shutter fasteners on all balconies. Work includes storage of shutters and reinstallation if possible.	1	LF	\$ 115.00	\$ 115.00
14.0	Shutter Removal and Disposal	Work includes the removal of existing shutters. New shutters to be reinstalled at cost to unit owner.	1	LF	\$ 50.00	\$ 50.00
15.0	Tile Removal & Disposal on the Balconies	Work includes removal and disposal of existing tile finishes on all balconies in preparation for the waterproofing replacement. Estimated 11,250 SF. Contractor to field verify quantity.	1	LS	\$ 73,125.00	\$ 73,125.00
16.0	Removal of Balcony Enclosure	Work includes removal and disposal of existing balcony enclosures on all the balconies. Estimated 2,700 LF. Contractor to field verify quantity. (Includes digging out anchors and patching of holes)	1	LS	\$ 121,500.00	\$ 121,500.00
18.0	Replacement of Balcony Enclosure (Standard aluminium embedded railing)	Work includes Installation of new balcony railing and enclosures as stated on the contract drawings (to be determine by Association). Estimated 2,700 LF. Contractor to field verify quantity.	1	LS	\$ 425,000.00	\$ 425,000.00
19.0	Waterproofing Replacement of the Balconies	Work includes removal and disposal of existing waterproofing on all balconies. Work includes substrate preparation in accordance with manufacturer requirements. Work includes the installation/applications of the new waterproofing system (Sikalastic 710 Base, Sikalastic 715 Top & Sikaguard Flexcoat and Flexcoat ATC) as stated on the design specifications & drawings. Estimated area of 11,250 Sqft, contractor is responsible for measurements on site.	1	LS	\$ 247,500.00	\$ 247,500.00

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20.0	Waterproofing of Pool Deck	Work includes substrate preparation. Work includes removal and replacement of stucco as necessary for the waterproofing flashing. (Sikalastic 710 Base & Sikalastic-735 AL) Estimated 12,000 SF. Contractor to field verify quantity. Stucco to include priming and coating.	12,000	SF	\$ 12.00	\$ 144,000.00
21.0	Waterproofing of Planters	Work includes removal and disposal of planter landscaping and waterproofing. Work includes substrate preparation. Work includes removal and replacement of stucco as necessary for waterproofing flashing. Installation of the new waterproofing system (Sikalastic 320 NS or Sikalastic 710/715) as stated on the contract drawings and product manufacturer installation requirements. Four 4'x4' and two 4'x8' planters to be waterproofed. Perimeter of the planters are to be sealed. Contractor to field verify quantity. Stucco to include priming and coating. (Price does not include any electrical, plumbing or installation of new vegetation)	1	LS	\$ 19,995.00	\$ 19,995.00
22.0	Expansion Joint repairs at Pool Deck	Work includes the removal and disposal of existing expansion joint along the building. Work includes repair/armoring of the concrete edges as specified on the contract documents. Work includes material and placement of the new expansion joint. (Summer Seal - EMSEAL)	230	LF	\$ 250.00	\$ 57,500.00
23.0	Expansion Joint - Building to Pool Deck Slab	Work includes the removal and disposal of existing expansion joints. Work includes repair/armoring of the concrete edges as specified on the contract documents. Work includes material and placement of the expansion joint. Work to include the replacement of the sealant at the perimeter of the pool. (Sikaflex -2c NSEZ)	130	LF	\$ 75.00	\$ 9,750.00
24.0	Paint Preparation	Surface preparation in accordance with manufacturer requirements including but not limited to, pressure washing, removal/replacement of cracked and worn sealants and caulking.	1	LS	\$ 26,550.00	\$ 26,550.00
25.0	Tower Paint Application	Paint selection and application shall be in (garage interior excluded) accordance with the provided specifications and meet or exceed the warranty requirements. Application shall be in accordance with the manufacturer requirements. The paint color is to be determined by ownership prior to application.	1	LS	\$ 80,442.00	\$ 80,442.00
26.0	Permit Fees	At Cost (based on 3%)	1	LS	\$ 40,114.00	\$ 40,114.00
27.0	Payment and Performance Bond	N/A	1	LS	N/A	N/A
LEGEND: SF - Square Feet, LS - Lump Sum, EA - Each, LF - Linear Feet, CF - Cubic Feet						
TOTAL COST (BASE BID):						\$ 1,608,491.00

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:
(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:
(Identify each allowance.)

Item	Price
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§ 3.5 Unit prices, if any, are as follows:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

(Table deleted)

ESTIMATED PROJECT DURATION (BASE BID): Include both duration and start month and year	270 Days (Start date: January 2025) 10 Man Restoration Crew to start, 4-5 man paint crew and 4-5 man crew for railing;
1. All activities mentioned herein include all required materials unless otherwise noted. See Drawings for the repair schedule and general project scope of work.	
2. All quantities presented are to be used as a budgetary estimate. Contractor shall field verify quantities and obtain Engineer review/approval for large discrepancies.	

Add/Alt. A- Estimated Allowances:

ITEM#	AREA	DESCRIPTION	QTY TYPE	UNIT COST	BID AMOUNT
A-1.0	Removal and Installation of Sliding Glass Doors	Work includes the removal and replacement of sliding glass doors, including frames and hardware. All installation shall follow the manufacturer's installation manual. Work also includes the temporary installation of dust walls for containment during the process	LF	\$ 995.00	TBD

Unit Cost Items

ITEM #	AREA	DESCRIPTION	ESTIMATE D QTY	QTY TYPE	UNIT COST
U-1	Partial Concrete top of Slab Repairs	Restore damaged on top of concrete slab	1	SF	\$ 125.00
U-2	Edge of Slab Repair	Restore damaged slab edge concrete	1	LF	\$ 135.00
U-3	Overhead Slab Repairs	Restore damaged overhead concrete	1	SF	\$ 135.00
U-4	Vertical/Wall Repair	Restore vertical damaged concrete	1	SF	\$ 100.00
U-5	Partial Concrete Beam Repairs	Restore damaged concrete beams/joists	1	CF	\$ 425.00
U-6	Partial Concrete Column Repairs	Restore damaged concrete column	1	CF	\$ 400.00
U-7	Full Depth Slab Repair	Restore damage concrete slab	1	SF	\$ 140.00
U-8	Concrete crack repair via epoxy injection	Repair cracks at concrete	1	LF	\$ 75.00
U-9	Crack repair by Gravity Feed	Repair cracks at concrete	1	LF	\$ 48.00
U-10	Stucco Repair	Stucco repaired area	1	SF	\$ 30.00
U-11	Stucco Crack Repair	Repair cracks at stucco	1	LF	\$ 22.00
U-12	Painting	Paint repaired area	1	SF	\$ 5.00
U-13	Waterproofing installation of the balconies	Remove existing waterproofing and install a new one as specified on the contract documents.	1	SF	\$ 22.00
U-14	Tile removal at balconies	Removal of existing tiles for waterproofing replacement	1	SF	\$ 7.50
U-15	Hourly Labor Rate	Standard hourly rate including OH&P, taxes, and insurance.	1	Hour	\$ 85.00
U-16	Material Cost Plus	Mark-up percentage on materials	1	%	10.00%
U-17	Subcontractor Cost Plus	Mark-up percentage on Subcontractors	1	%	10.00%
U-18	Equipment Rental Cost Plus	Mark-up percentage on Equipment	1	%	10.00%
17.0	Replacement of Balcony Enclosure (Glass Railing)	Work includes Installation of new balcony railing as stated on the contract drawings(to be determine by Association). Estimated 2,700 LF. Contractor to field verify quantity.	1	LS	\$ 810,000.00

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- All work is to be completed according to Engineer Specifications – *If rebar replacement is needed due to unforeseen surfaces it will be charged at \$8.50 per LF*
- Should the quantities surpass the specified footage, the pricing structure will transition to unit pricing, accompanied by a supplementary 10% charge for mobilization. This additional mobilization fee covers the costs associated with additional time for equipment rental, debris removal, personnel, and resources beyond the initial project scope.
- All change orders, regardless of their nature or scope, are meticulously directed and overseen by the Associations Engineer. Their expertise ensures that any alterations or modifications to the project are conducted with precision and in alignment with the project’s objectives and specifications. The Associations Engineer serves as the authoritative figure guiding the change management process, ensuring that all adjustments are thoroughly evaluated, approved, and seamlessly integrated into the project plan. Their diligent oversight helps maintain the project’s integrity, quality standards, and adherence to regulatory requirements, ultimately contributing to the successful completion of the project.
- The Association is required to pay for both the Permits and Engineers Fees, along with an expediting fee of \$1,000. This additional fee is designated for the contractor’s execution of administrative tasks and submission of the permit paperwork on behalf of the association. Essentially, it covers the costs associated with expediting the permit process, ensuring a smoother and more efficient progression of the project.

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor’s Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

(Insert below timing for payments and provisions for withholding retainage, if any.)

Deposit payment of 50% of mobilization/general conditions is due upon starting the project, and progress invoice will be issued in accordance with completion of work. **10% retainage** will be withheld until the final walkthrough is complete. All payments are to be made within (10) business days following Flack’s delivery of any invoice.

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

(Insert rate of interest agreed upon, if any.)

12 % Interest shall accrue on all unpaid amounts not received within 30 days of Flack’s delivery of an invoice at the lesser rate of (i) twelve percent (12%) per annum or (ii) the maximum interest rate allowed by law, from the date such delinquent amount is due until paid in full.

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than One Million (\$ 1,000,000.00) each occurrence, Two Million (\$ 2,000,000.00) general aggregate, and Two Million (\$ 2,000,000.00) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than Three Hundred Thousand (\$ 300,000.00) per accident, for bodily injury, death of any person,

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and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits. No individual employee of Contractor exempt from worker's compensation insurance under Florida law will perform services in the Community. The Contractor shall name Owner as an additional insured on each such policy referenced in Article 5.1 of the Contract (with the exception of workers compensation insurance), and shall supply the Owner with evidence of and keep such insurance policies in full force and effect during the entire course of the Work to be performed. Contractor agrees that it shall perform no Work under this Contract during such time as such insurance policies are not in full force and effect. Contractor shall ensure that all parties entering the Community or responding to the direction, either directly or indirectly, of the Contractor, shall carry worker's compensation insurance and, in the event of non-coverage, the Contractor shall indemnify the Owner for any claim such party may bring against the Owner

§ 5.1.5 Employers' Liability with policy limits not less than One Million (\$ 1,000,000.00) each accident, One Million (\$ 1,000,000.00) each employee, and One Million (\$ 1,000,000.00) policy limit.

§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage

Limits

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

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§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect. Owner is entitled to retain a complete set of the Instrument of Services prepared by the Engineer and/or Contractor and shall be permitted to use such documents for future projects with the written consent of the Engineer and/or Contractor, which consent shall not be unreasonably withheld.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.
(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

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ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. Contractor represents, warrants and covenants to Owner that it is a Florida corporation in good standing; is fully licensed and qualified to undertake the Work required hereunder; has a sufficient staff to timely commence and complete the Work and does not now foresee a future shortage of either labor or materials which would hinder its timely completion thereof. Contractor acknowledges that Owner is entering into this Contract based upon and in reliance in Contractor's representations as to its knowledge and expertise in the type of Work contemplated herein, which it hereby represents to Owner. Contractor shall be responsible to Owner for the negligence and willful misconduct of its employees, all subcontractors and their agents and employees, or any other person performing any portion of the Work at the direction, either directly or indirectly, of Contractor, including with regard to damages to any persons or property, while on site at the Community and/or in performance of the Work

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Architect.

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

§ 8.3.2 The Contractor, within seven (7) days after execution of the Contract and the Addendum by all parties, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.4.3 Increases in material or labor costs and Proposal Price. In the event that, during Flack's performance of the Work, Flack's costs for any one line item of materials to be used in performance of the Work or labor to be used on relation to the Project increases by more than five percent (5%), or the material or labor costs increases by more than five percent (5%) in the aggregate, over the Flack's costs for same as of the Effective Date for any cause(s) beyond the control of Flack's (including, without limitation, material shortages resulting from a natural disaster, pandemic, supply chain issues or other market conditions), then, and in such event(s), Owner agrees to be responsible for the entire amount of material or labor cost increase(s) (as applicable) and the total amount(s) thereof will be added to the Contract Price. Such adjustments to the Contract Price shall be documented in a change order signed by both parties.

§ 8.5 Warranty

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the

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requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5. Contractor expressly warrants and guarantees all Work and materials provided under this Contract to be fit for the purposes intended for a period of 5 years from the date of Substantial Completion. Further, Contractor hereby agrees that during the periods of time, this warranty is in effect, any system failure due to either Work performed or material, if conforming with Contractor's or Manufacturer's written warranty and except for reasons not attributable to Contractor's performance or that of material defect, shall be corrected and/or replaced and restored to sufficient condition at no cost to the Owner. After twenty (20) days' written notice via certified mail to Contractor of any claim under warranty, should Contractor refuse to so restore same as aforesaid, Owner may pursue legal action to enforce this Article and/or perform the Work and/or secure additional material, and Contractor shall reimburse Owner for such sum, provided, however within the 20 days after receipt by Contractor of notice of claim the following conditions are met: Contractor is provided reasonable time and access to inspect as reasonably needed the condition leading to the claim; and the Contractor, after its inspection does not contest the validity of the claim in its professional opinion by providing written notice of its denial of claim. Contractor further warrants and covenants to Owner that it is a Florida corporation in good standing; is fully licensed and qualified to undertake the Work required hereunder; has a sufficient staff to timely commence and complete the Work. Contractor acknowledges that Owner is entering into this Contract based upon and in reliance in Contractor's representations as to its knowledge and expertise in the type of Work contemplated herein, which it hereby represents to Owner.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

§ 8.7 Permits, Fees and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials. At the completion of the Work, Contractor shall remove all its waste materials and rubbish from and about the premises as well as its tools, equipment, machinery and surplus materials and return all affected areas of the property to a good and clean condition. Contractor shall not dispose of any toxic or hazardous waste products at the premises or any of the adjoining property, and shall comply with all Federal, State and Local regulations, including, but not limited to environmental guidelines and regulations such as that of the Environmental Protection Agency in disposing of all toxic or hazardous materials.

§ 8.12 Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, 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 (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a 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 a party indemnified hereunder.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order, in writing, changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing signed by both the Owner and the Contractor. To avoid any doubt, such changes in the Work shall be authorized only by written change order signed by the Owner, Contractor, and the Architect. All change orders issued under the Contract shall be subject to all of the terms of the Contract Documents. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit, not to exceed ten (10%) percent, as approved by the Architect.

§ 10.2 The Architect may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If additional Work not contemplated within the original scope of the project is required, prior to ordering any additional work which may lead to cost overruns, unanticipated expenses, and/or a delay in completing the Work, Contractor shall secure the written consent of the Owner. The Contract Sum and Contract Time shall be adjusted, in writing, upon mutual agreement of the parties. Any additional work performed by Contractor without the prior written consent of the Owner shall be at Contractor's own expense.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.3 Certificates for Payment

The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.4 Progress Payments

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents. Contractor shall submit Application for Payment in accordance with Article 12.2.1. The Application for Payment may include partially installed work through the date of Application for Payment and shall represent the percentage of work in place for the requested pay period. Upon completion or partial completion by Contractor of any stage of the Work requiring payment under this Contract, all Work will be inspected by the designated representative of the Owner, and all inspections completed which may be necessary, as Manufacturer determines to validate any Manufacturer's Warranties of Work and materials. Any objections to Work performed and submitted for payment shall be given in writing to Contractor within five (5) days of the Contractor's written notice to Owner that the Work or portion thereof has been completed. If no objections are made within this

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period, then payment shall be tendered to Contractor as provided hereunder and Contractor shall submit simultaneously an executed Progress Payment Affidavit, Partial Release of Lien, or, if completion is final, an executed Contractor's Final Affidavit, or any other forms as may be required by the Florida Construction Lien Laws, on forms which Owner shall provide, indicating that all subcontractors, laborers, materialmen and suppliers have been paid for the Work completed or portion thereof through the date of that requisition for payment. If non-conforming Work is not remedied, or Contractor fails to make payments to subcontractors or material suppliers, Owner shall have the option, after ten (10) days written notice to Contractor, to withhold payment due until Contractor has met its obligations. If Contractor, after an additional ten (10) days written notice still has not commenced to remedy or provided written reasonable cause for the delay to remedy, then Owner may elect to terminate the Contract in accordance with Article 16.2. of the Contract.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

(Paragraph deleted)

§ 12.6.2. Final Payment for the last Application for Payment issued by the Contractor shall not become due or issued until Contractor has: (i) completed all Punch List items of Work; (ii) removed temporary facilities from the site, along with construction tools and similar elements; (iii) completed clean up, including repaired, replaced and restored any property (including, without limitation, any real or personal property) damaged by Contractor, any subcontractor, or anyone directly or indirectly controlled or employed by any of them, or by anyone for whose acts any of them may be liable, as a consequence of or in connection with performing any of the Work; (iv) delivered to Owner Final Releases and Waivers of Lien from Contractor and all subcontractors, laborers, suppliers; (v) delivered to Owner a Contractor's Final Payment Affidavit from Contractor and all sub and sub-subcontractors performing any portion of the Work through an agreement with Contractor; (vi) delivered to Owner all warranties as described in this Contract; and, (vii) obtained all final approvals with respect to the Work from appropriate governmental authorities, successfully closed out all open permits with the City and provided proof thereof to Owner. Further, notwithstanding anything to the contrary contained in the Contract, neither the Final Payment, nor any use of the premises by the Owner, shall constitute an acceptance of the Work not performed in accordance with the Contract requirements, or relieve the Contractor of liability with respect to any express or implied warranties or responsibilities for any faulty materials or workmanship.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3

Governing Law/Venue/Attorney's Fees and Costs. The Contract and this Addendum shall be governed by Florida law. In the event that any litigation is pursued to enforce the provisions of the Contract and/or the Addendum, venue shall lie in Broward County, Florida. If either party shall seek legal action to enforce the terms and conditions hereof, or to settle any and all claims, disputes or other matters in question arising out of or relating to the Contract or this Addendum, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs, taxable or otherwise, at trial and through any and all court proceedings, including, but not limited, to any and all appeals, from the other party. The prevailing party shall also be entitled to attorneys' fees incurred in any proceedings to address fee entitlement and/or award.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 The Owner may terminate the Contract if the Contractor

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- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

- ALL vehicles & items must be relocated during restoration process to protect from debris. If car covers and/or barriers are needed it will be discussed & priced accordingly.
- All shrubs/bushes/tress MUST be cut back by Owner at least 18 inches from all surfaces to allow Flack's Painting to have access to apply materials properly according to manufactures specifications for warranty. Flack's Painting & Waterproofing Inc. will use all precautions needed to protect landscaping and ground surfaces while work is in progress. If damages are to occur in areas where we have protected to the best of our ability, Flack's Painting & Waterproofing Inc. will not be held responsible for these damages.
- If any severe weather is to arise and Flack's Painting & Waterproofing Inc's Hurricane Plan will go into effect. See plan for individualized phase pricing.
- Flack's Painting & Waterproofing Inc. is not responsible for any previous scratches or damages that are present on glass surfaces at the time of project. All glass surfaces that show signs of damage will be documented during the painting process. If any paint, stucco, concrete, waterproofing, and/or any other materials used is to appear on any glass surfaces it will be properly cleaned using plastic window scrappers. No metal scrappers will be used by Flack's Painting & Waterproofing. Flack's Painting & Waterproofing Inc. is not responsible for

cleaning windows, but responsible for cleaning the paint off glass surfaces during the duration of job.

- Flack’s Painting & Waterproofing Inc. will conduct a precondition survey prior to work commencing.
- The Contract Documents are the joint product of the respective parties hereto and, in the event of a dispute, may not be more strictly construed against any party. If any provisions under the Contract become illegal, null or void for any reason, the remaining portions shall remain in full force and effect. The Contract Documents are the joint product of the respective parties hereto and, in the event of a dispute, may not be more strictly construed against any Party
- No failure of Owner to exercise any power or right given hereunder or to insist upon strict compliance by Contractor with any of its obligations under the Contract Documents, and no custom or practice of the Parties at variance with the terms of the Contract Documents, shall constitute a waiver or variation of the right of Owner to demand exact compliance with the terms. Likewise, Contractor’s failure to demand strict compliance with any terms of the Contract shall not act as a waiver of any of its rights or obligations hereunder, nor shall it act as a waiver to demand strict compliance from Owner

This Agreement entered into as of the day and year first written above.
(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

OWNER *(Signature)*

(Printed name and title)

CONTRACTOR *(Signature)*

(Printed name and title)

LICENSE NO.:
JURISDICTION:

Additions and Deletions Report for AIA® Document A105® – 2017

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Intracoastal Tower Condominium
1505 N. Riverside Drive
Pompano Beach Florida 33062

...

Flack’s Painting & Waterproofing Inc. CGC1521737
1000 NE 26th Avenue
Pompano Beach Florida 33062
(954) 786-7535

...

Intracoastal Tower Condominium
1505 N. Riverside Drive
Pompano Beach Florida 33062

...

Marcon Forensics
1825 Corporate Blvd NW STE 110
Boca Raton, Florida 33431

PAGE 2

Drawings:

Number	Title	Date
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Specifications:

Section	Title	Pages
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~~.3~~ addenda prepared by the Architect as follows:

Number	Date	Pages
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.4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

...

Contractors Terms Dated 10/29/2024

Based off execution of contract and permit approval

...

[] ~~Not later than () calendar~~ **X**] Not later than 270 (Two Hundred and Seventy) Working days from the date of commencement. Due to the difficulty in determining damages for failure to timely complete all Work associated with the terms of the Contract, all parties agree that the Contractor's failure to timely complete all Work, as provided under the Work specifications provided in the Contract, shall subject Contractor to liquidated damages for each day that Work remains incomplete at a daily rate of three-hundred and fifty (\$350.00) Dollars.

...

~~(\$)~~ One Million, Six Hundred Eight, Four Hundred Ninety-One 00/100 (\$ 1,608,491.00). The Contract Sum is based on the scope of work and Contractor agrees to organize, coordinate, administer, supervise, and direct all portions of the Work based upon this sum and the payment schedule set forth in the Contract Documents and/or as agreed upon by the parties in writing, and Contractor assumes all risks and responsibilities for performing all such Work for this amount, subject to written change orders as provided in the Contract Documents. Owner shall not be liable for any cost increases associated with labor that may arise during the course of the Work, unless agreed to in writing

...

Portion of the Work	Value
----------------------------	--------------

Item	Units and Limitations	Price per Unit (\$0.00)
-------------	------------------------------	--------------------------------

- All work is to be completed according to Engineer Specifications – *If rebar replacement is needed due to unforeseen surfaces it will be charged at \$8.50 per LF*
- Should the quantities surpass the specified footage, the pricing structure will transition to unit pricing, accompanied by a supplementary 10% charge for mobilization. This additional mobilization fee covers the costs associated with additional time for equipment rental, debris removal, personnel, and resources beyond the initial project scope.
- All change orders, regardless of their nature or scope, are meticulously directed and overseen by the Associations Engineer. Their expertise ensures that any alterations or modifications to the project are conducted with precision and in alignment with the project's objectives and specifications. The Associations Engineer serves as the authoritative figure guiding the change management process, ensuring that all adjustments are thoroughly evaluated, approved, and seamlessly integrated into the project plan. Their diligent oversight helps maintain the project's integrity, quality standards, and adherence to regulatory requirements, ultimately contributing to the successful completion of the project.

➤ The Association is required to pay for both the Permits and Engineers Fees, along with an expediting fee of \$1,000. This additional fee is designated for the contractor's execution of administrative tasks and submission of the permit paperwork on behalf of the association. Essentially, it covers the costs associated with expediting the permit process, ensuring a smoother and more efficient progression of the project.

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Deposit payment of 50% of mobilization/general conditions is due upon starting the project, and progress invoice will be issued in accordance with completion of work. 10% retainage will be withheld until the final walkthrough is complete. All payments are to be made within (10) business days following Flack's delivery of any invoice.

...

12 % Interest shall accrue on all unpaid amounts not received within 30 days of Flack's delivery of an invoice at the lesser rate of (i) twelve percent (12%) per annum or (ii) the maximum interest rate allowed by law, from the date such delinquent amount is due until paid in full.

...

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than One Million (\$ 1,000,000.00) each occurrence, Two Million (\$ 2,000,000.00) general aggregate, and Two Million (\$ 2,000,000.00) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than Three Hundred Thousand (\$ 300,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

PAGE 8

§ 5.1.4 Workers' Compensation at statutory limits. No individual employee of Contractor exempt from worker's compensation insurance under Florida law will perform services in the Community. The Contractor shall name Owner as an additional insured on each such policy referenced in Article 5.1 of the Contract (with the exception of workers compensation insurance), and shall supply the Owner with evidence of and keep such insurance policies in full force and effect during the entire course of the Work to be performed. Contractor agrees that it shall perform no Work under this Contract during such time as such insurance policies are not in full force and effect. Contractor shall ensure that all parties entering the Community or responding to the direction, either directly or indirectly, of the Contractor, shall carry worker's compensation insurance and, in the event of non-coverage, the Contractor shall indemnify the Owner for any claim such party may bring against the Owner

§ 5.1.5 Employers' Liability with policy limits not less than One Million (\$ 1,000,000.00) each accident, One Million (\$ 1,000,000.00) each employee, and One Million (\$ 1,000,000.00) policy limit.

...

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Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect. Owner is entitled to retain a complete set of the Instrument of Services prepared by the Engineer and/or Contractor and

shall be permitted to use such documents for future projects with the written consent of the Engineer and/or Contractor, which consent shall not be unreasonably withheld

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§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. Contractor represents, warrants and covenants to Owner that it is a Florida corporation in good standing; is fully licensed and qualified to undertake the Work required hereunder; has a sufficient staff to timely commence and complete the Work and does not now foresee a future shortage of either labor or materials which would hinder its timely completion thereof. Contractor acknowledges that Owner is entering into this Contract based upon and in reliance in Contractor's representations as to its knowledge and expertise in the type of Work contemplated herein, which it hereby represents to Owner. Contractor shall be responsible to Owner for the negligence and willful misconduct of its employees, all subcontractors and their agents and employees, or any other person performing any portion of the Work at the direction, either directly or indirectly, of Contractor, including with regard to damages to any persons or property, while on site at the Community and/or in performance of the Work

...

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, within seven (7) days after execution of the Contract and the Addendum by all parties, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

...

8.4.3 Increases in material or labor costs and Proposal Price. In the event that, during Flack's performance of the Work, Flack's costs for any one line item of materials to be used in performance of the Work or labor to be used on relation to the Project increases by more than five percent (5%), or the material or labor costs increases by more than five percent (5%) in the aggregate, over the Flack's costs for same as of the Effective Date for any cause(s) beyond the control of Flack's (including, without limitation, material shortages resulting from a natural disaster, pandemic, supply chain issues or other market conditions), then, and in such event(s), Owner agrees to be responsible for the entire amount of material or labor cost increase(s) (as applicable) and the total amount(s) thereof will be added to the Contract Price. Such adjustments to the Contract Price shall be documented in a change order signed by both parties.

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5. Contractor expressly warrants and guarantees all Work and materials provided under this Contract to be fit for the purposes intended for a period of **5years** from the date of Substantial Completion. Further, Contractor hereby agrees that during the periods of time, this warranty is in effect, any system failure due to either Work performed or material, if conforming with Contractors or Manufactures written warranty and except for reasons not attributable to Contractor's performance or that of material defect, shall be corrected and/or replaced and restored to sufficient condition at no cost to the Owner. After twenty (20) days' written notice via certified mail to Contractor of any claim under warranty, should Contractor refuse to so restore same as aforesaid, Owner may pursue legal action to enforce this Article and/or perform the Work and/or secure additional material, and Contractor shall reimburse Owner for such sum, provided, however within the 20 days after receipt by Contractor of notice of claim the following conditions are met: Contractor is provided reasonable time and access to inspect as reasonably needed the condition leading to the claim; and the Contractor, after its inspection does not contest the validity of the claim in its professional opinion by providing written notice of its denial of claim. Contractor further warrants and covenants to Owner that it is a Florida corporation in good standing; is fully licensed and qualified to undertake the Work required hereunder; has a sufficient staff to timely commence and complete the Work. Contractor acknowledges that Owner is entering into this Contract based upon and in reliance in Contractor's representations as to its knowledge and expertise in the type of Work contemplated herein, which it hereby represents to Owner.

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The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials. At the completion of the Work, Contractor shall remove all its waste materials and rubbish from and about the premises as well as its tools, equipment, machinery and surplus materials and return all affected areas of the property to a good and clean condition. Contractor shall not dispose of any toxic or hazardous waste products at the premises or any of the adjoining property, and shall comply with all Federal, State and Local regulations, including, but not limited to environmental guidelines and regulations such as that of the Environmental Protection Agency in disposing of all toxic or hazardous materials.

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§ 10.1 The Owner, without invalidating the Contract, may ~~order~~ order, in writing, changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, ~~in writing~~ in writing signed by both the Owner and the Contractor. To avoid any doubt, such changes in the Work shall be authorized only by written change order signed by the Owner, Contractor, and the Architect. All change orders issued under the Contract shall be subject to all of the terms of the Contract Documents. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit, not to exceed ten (10%) percent, as approved by the Architect.

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§ 10.3 ~~If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the additional Work not contemplated within the original scope of the project is required, prior to ordering any additional work which may lead to cost overruns, unanticipated expenses, and/or a delay in completing the Work, Contractor shall secure the written consent of the Owner. The Contract Sum and Contract Time shall be subject to equitable adjustment, in writing, upon mutual agreement of the parties. Any additional work performed by Contractor without the prior written consent of the Owner shall be at Contractor's own expense.~~

...

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents. Contractor shall submit Application for Payment in accordance with Article 12.2.1. The Application for Payment may include partially installed work through the date of Application for Payment and shall represent the percentage of work in place for the requested pay period. Upon completion or partial completion by Contractor of any stage of the Work requiring payment under this Contract, all Work will be inspected by the designated representative of the Owner, and all inspections completed which may be necessary, as Manufacturer determines to validate any Manufacturer's Warranties of Work and materials. Any objections to Work performed and submitted for payment shall be given in writing to Contractor within five (5) days of the Contractor's written notice to Owner that the Work or portion thereof has been completed. If no objections are made within this period, then payment shall be tendered to Contractor as provided hereunder and Contractor shall submit simultaneously an executed Progress Payment Affidavit, Partial Release of Lien, or, if completion is final, an executed Contractor's Final Affidavit, or any other forms as may be required by the Florida Construction Lien Laws, on forms which Owner shall provide, indicating that all subcontractors, laborers, materialmen and suppliers have been paid for the Work completed or portion thereof through the date of that requisition for payment. If non-conforming Work is not remedied, or Contractor fails to make payments to subcontractors or material suppliers, Owner shall have the option, after ten (10) days written notice to Contractor, to withhold payment due until Contractor has met its obligations. If Contractor, after an additional ten (10) days written notice still has not commenced to remedy or provided written reasonable cause for the delay to remedy, then Owner may elect to terminate the Contract in accordance with Article 16.2. of the Contract.

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~~§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.~~

§ 12.6.2. Final Payment for the last Application for Payment issued by the Contractor shall not become due or issued until Contractor has: (i) completed all Punch List items of Work; (ii) removed temporary facilities from the site, along with construction tools and similar elements; (iii) completed clean up, including repaired, replaced and restored any property (including, without limitation, any real or personal property) damaged by Contractor, any subcontractor, or anyone directly or indirectly controlled or employed by any of them, or by anyone for whose acts any of them may be liable, as a consequence of or in connection with performing any of the Work; (iv) delivered to Owner Final Releases and Waivers of Lien from Contractor and all subcontractors, laborers, suppliers; (v) delivered to Owner a Contractor's Final Payment Affidavit from Contractor and all sub and sub-subcontractors performing any portion of the Work through an agreement with Contractor; (vi) delivered to Owner all warranties as described in this Contract; and, (vii) obtained all final approvals with respect to the Work from appropriate governmental authorities, successfully closed out all open permits with the City and provided proof thereof to Owner. Further, notwithstanding anything to the contrary contained in the Contract, neither the Final Payment, nor any use of the premises by the Owner, shall constitute an acceptance of the Work not performed in accordance with the Contract requirements, or relieve the Contractor of liability with respect to any express or implied warranties or responsibilities for any faulty materials or workmanship.

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§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

Governing Law/Venue/Attorney's Fees and Costs. The Contract and this Addendum shall be governed by Florida law. In the event that any litigation is pursued to enforce the provisions of the Contract and/or the Addendum, venue shall lie in Broward County, Florida. If either party shall seek legal action to enforce the terms and conditions hereof, or to settle any and all claims, disputes or other matters in question arising out of or relating to the Contract or this Addendum, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs, taxable or otherwise, at trial and through any and all court proceedings, including, but not limited, to any and all appeals, from the other party. The prevailing party shall also be entitled to attorneys' fees incurred in any proceedings to address fee entitlement and/or award.

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- ALL vehicles & items must be relocated during restoration process to protect from debris. If car covers and/or barriers are needed it will be discussed & priced accordingly.
- All shrubs/bushes/tress MUST be cut back by Owner at least 18 inches from all surfaces to allow Flack's Painting to have access to apply materials properly according to manufactures specifications for warranty. Flack's Painting & Waterproofing Inc. will use all precautions needed to protect landscaping and ground surfaces while work is in progress. If damages are to occur in areas where we have protected to the best of our ability, Flack's Painting & Waterproofing Inc. will not be held responsible for these damages.
- If any severe weather is to arise and Flack's Painting & Waterproofing Inc's Hurricane Plan will go into effect. See plan for individualized phase pricing.
- Flack's Painting & Waterproofing Inc. is not responsible for any previous scratches or damages that are present on glass surfaces at the time of project. All glass surfaces that show signs of damage will be documented during the painting process. If any paint, stucco, concrete, waterproofing, and/or any other materials used is to appear on any glass surfaces it will be properly cleaned using plastic window scrappers. No metal scrappers will be used by Flack's

Painting & Waterproofing. Flack's Painting & Waterproofing Inc. is not responsible for cleaning windows, but responsible for cleaning the paint off glass surfaces during the duration of job.

- Flack's Painting & Waterproofing Inc. will conduct a precondition survey prior to work commencing.
- The Contract Documents are the joint product of the respective parties hereto and, in the event of a dispute, may not be more strictly construed against any party. If any provisions under the Contract become illegal, null or void for any reason, the remaining portions shall remain in full force and effect. The Contract Documents are the joint product of the respective parties hereto and, in the event of a dispute, may not be more strictly construed against any Party
- No failure of Owner to exercise any power or right given hereunder or to insist upon strict compliance by Contractor with any of its obligations under the Contract Documents, and no custom or practice of the Parties at variance with the terms of the Contract Documents, shall constitute a waiver or variation of the right of Owner to demand exact compliance with the terms. Likewise, Contractor's failure to demand strict compliance with any terms of the Contract shall not act as a waiver of any of its rights or obligations hereunder, nor shall it act as a waiver to demand strict compliance from Owner

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:43:15 ET on 01/15/2025 under Order No. 2114597087 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A105™ – 2017, Standard Short Form of Agreement Between Owner and Contractor, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)