

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE SUSANVILLE SCHOOL DISTRICT  
AND  
LONG VALLEY CHARTER SCHOOL

The Susanville School District (the "District") and Long Valley Charter School ("LVCS"), which operates Thompson Peak Charter School (the "School"), a non-profit benefit corporation do hereby enter into this Memorandum of Understanding as follows:

**Recitals**

Whereas, on July 1, 2019, the governing board of Susanville School District granted the Thompson Peak Charter School petition pursuant to the terms of the Charter School Act of 1992.

Whereas, that charter expires on June 30, 2027.

Whereas, this document shall serve to clarify the status of the School and define the responsibilities of the parties.

**AGREEMENT**

**Section 1. Term.** This MOU is valid from the date fully executed through June 30, 2027. The parties agree to review the terms of the MOU every 12 months, at which time it may be modified, augmented, or terminated with the written mutual consent of the governing bodies of the District and School. The MOU shall be deemed automatically terminated if the School's charter is revoked in compliance with law or if the School closes.

**Section 2. Compliance with Laws.**

(a) Public Agency Requirements. The School recognizes and agrees to comply with the Ralph M. Brown Act (Gov. Code 6450, et seq.), Political Reform Act (Gov. Code 87100, et seq.), Public Records Act (Gov. Code 6450, et seq.), and all other statutes applicable to local public agencies, officers and employees.

(b) Charter School Act. Both parties acknowledge and agree to comply with all provisions of the Charter School Act, as amended from time to time, and all other applicable laws.

**Section 3 . Oversight.**

The School understands and acknowledges that the District is required and has the authority to oversee all operations and programs of the School. The School agrees to cooperate with the District in all respects related to the District's oversight operations. In accordance with the Education Code section 47613, the District may charge for the actual costs of supervisorial oversight not to exceed 1 percent of the revenue of the School. "Revenue" is defined in accordance with Education Code section 47613(f).

**Section 4. Fiscal Relationship.**

(a) Administrative Services: In the event the School desires to purchase administrative or

other services from the District, the School shall make a request for such services no later than March 1, prior to the academic year in which services will be provided. The District agrees to notify the School whether the District agrees to provide the requested services, and the cost therefore, within 60 days of receipt of the School' request.

(b) Payment for Services, Pro Rata Share, Oversight Fees and Expenses: The District shall provide a written invoice and supporting expense information to the School detailing the amount due for services performed by the District, oversight fees, and any expenses paid by the District on the School's behalf. If the School disagrees with the charges contained in the written invoice, the School will provide written notice to the District regarding the specific nature of its concerns within ten (10) business days of the receipt of the invoice. Upon receipt of written notice, the District shall provide the School with timely and complete access to the supporting documentation, accounting statements and underlying cost data for each service, pro-rata share, oversight fee and or expense charged to the School.

(c) Audit. The School shall promptly respond to all reasonable inquiries regarding its financial records (EC 47604.3). The School will contract and pay for an independent annual audit the School's financial affairs. The audit will verify the accuracy of the School's financial statements, reporting practices and amounts paid to the District. The audit will be conducted in accordance with generally accepted accounting principles applicable to public School and in compliance with the audit provisions of the charter. The School will review any audit exceptions or deficiencies and determine the means for resolving any such exceptions or deficiencies. Audit exceptions must be resolved to the satisfaction of the District and in accordance with the procedures detailed in the charter.

(d) Direct Funded. The School will receive Local Control Funding Formula revenue directly from the State of California. The School will have their own mailing addresses, accounts in the county treasury and manage their own funds, including the authority to establish an account at a private bank for its corporate-authorized purchases and expenditures. The School acknowledges and agrees that the District shall have no liability to the School for any of the School's finances or contract obligations.

(e) Additional Costs. The School will reimburse the District for any other necessary costs or expenses incurred in the direct operation of the School which are not specifically enumerated in the Agreement.

#### **Section 5. Special Education.**

The parties acknowledge and agree that the special education needs of the students at the School will be served by the Lassen County SELPA and that the District has no duty to provide special education services to students at the School.

#### **Section 6. Legal Relationship.**

(a) Separate Legal Entity: The School represents that they are organized and managed by a California Non-Profit Public Benefit Corporation. This non-profit corporation is named Long Valley Charter School and has been granted federal and state tax exempt status (501(c)(3)).

Pursuant to its charter and Education Code section 47604, the School is operated by a non-profit public benefit corporation and are a separate legal entity from the District. As such, the District shall not be liable for the debts or obligations of the School or the Non-Profit to the maximum extent permitted by applicable law. It is agreed that it is the parties' intent that the District shall incur no unreimbursed cost or expenses of any type whatsoever as a result of its relationship with the School.

(b) Indemnification: The School shall, to the fullest extent permitted by law, hold harmless, indemnify, and defend the District, its officers, directors, and employees from and against any and all claims, demands, actions, suits, losses, liability expenses and costs including, without limitation, attorneys' fees and costs arising out of injury to any persons, including death or damage to any property caused by, connected with, or attributable to the willful misconduct, negligent acts, errors or omissions of the School or their officers, employees, agents and consultants, excepting only those claims, demands, actions, suits, losses, liability expenses and costs caused by the sole negligence or willful misconduct of the District, its officers, directors and employees.

With respect to the operations under this MOU, the District shall, to the fullest extent permitted by law, hold harmless, indemnify, and defend the School, their officers, directors, and employees from and against any and all claims, demands, actions, suits, losses, liability expenses and costs including death or damage to any property caused by, connected with, or attributable to the willful misconduct, negligent acts, errors or omissions of the District or its losses, liability expenses and costs caused by the sole negligence or willful misconduct of the School, their officers, directors and employees.

(c) Insurance: General Liability, Sexual Abuse or Molestation, Errors & Omissions, and Employment Practices Liability: The School, at their expense, shall procure and maintain throughout the term of this Agreement, General Liability, Errors and Omissions, Sexual Abuse or Molestation, and Employment Practices Liability with a minimum per occurrence limit of \$5,000,000 and the deductible/self-insurance retention shall not exceed \$5,000. Such minimum limits of policies shall in no event limit the liability of the School hereunder. Insurance shall include coverage for claims against the School, their elected or appointed officials, employees, agents, volunteers and students (interns while acting on behalf of the School).

The policy or policies shall name as additional insured/additional covered party the District; it's elected or appointed officials, employees, agents and volunteers. The policy or policies shall provide that this insurance shall be primary with respect to any liability or claimed liability arising out of the performance or activities by the School under this Agreement, and that any insurance procured by the District, its elected or appointed officials, employees, agents and volunteers shall be excess of the School' insurance and shall not contribute with it.

Any insurance proceeds available to the School that are broader than or in excess of the specified minimum insurance coverage and/or limits shall be available to the District as an additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement, or (2) the boarder coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured, whichever is greater.

Automobile Liability. School shall maintain automobile liability insurance, including non-owned and hired coverage with a minimum per accident limit of \$5,000,000 for any injuries to persons (including death therefrom) and property damage in connection with the School' activities under this Agreement.

Property Insurance. District is not responsible for real or personal property losses suffered by the School, their elected or appointed officials, employees, agents, volunteers or students. School shall be solely responsible for obtaining adequate property insurance for School' personal property, building improvements and any real property/buildings owned by the School.

School shall be solely responsible for obtaining adequate property insurance for School's personal property, building improvements and any real property/buildings owned by the School while located on the Premises or elsewhere. The District is not responsible for real or personal property losses suffered by

the School, their elected or appointed officials, employees, agents, volunteers or students.

**Workers' Compensation.** School is to procure and maintain, for the duration of this Agreement, Workers' Compensation insurance against claims for injuries to the School's employees in accordance with such insurance as required by the State of California Labor Code and Employers Liability coverage.

**Bond/Crime Insurance.** The School shall purchase and hold fidelity bond coverage or employee dishonesty/theft insurance with a minimum limit of \$1,000,000 to cover all school employees. The bond/policy deductible shall not exceed \$5,000.

**Proof of Insurance.** School shall annually furnish the District with original certificates and amendatory endorsements affecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by the District before commencement of any activities under this Agreement. However, failure to do so shall not operate as a waiver of these insurance requirements. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Agreement at any time.

(d) **Complaints:** Any complaints/concerns (including complaints filed with OCR, FEHA, and EEOC) received by the District about any aspect of the operation of the School or about the School shall be forwarded by the District to the School. To the extent that such concerns/complaints may involve issues related to possible revocation or non-renewal of the charter, the District may request that the School inform the District of how such concerns/complaints are being addressed. The School agrees to provide such information. The parties recognize that the School shall not be obligated to release information that it determines under applicable law to be privileged and/or confidential in nature and not subject to public release.

#### **Section 7. Miscellaneous.**

(a) **Assignment.** Neither party may assign or delegate its obligations under this agreement.

(b) **Consent.** Where consent, approval or mutual agreement is required of a party, it shall not be unreasonably withheld or delayed.

(c) **Default.** If either party refuses or fails in any material respect properly to perform its obligations under this Agreement, or violates any of the material terms or conditions of the Agreement, such refusal, failure or violation shall constitute default. In such event, the non-defaulting party may so notify the other in writing of the default and allow that party a period of thirty (30) calendar days to cure such default. If the defaulting party does not cure such default within said (30) calendar days, the non-defaulting party shall have the right to terminate this Agreement upon written notice to the other party. Notwithstanding rights provided through this clause, all service fees for current month and previously certified student attendance shall still be due and payable per the terms of this Agreement. If such default is for failure of the District to pay service fees that have already been transferred to the District from State or other granting entity, then the District shall be granted a period of thirty (30) working days to cure such default.

(d) **Entire Agreement.** Except for written amendments, modifications or supplements made after the execution of this Agreement, the Agreement and its attachments represent the entire agreement between the parties hereto with respect to the subject matter of this Agreement and supersedes all prior renegotiations, representations and agreements, either oral or written with the exception of obligations of the School as set forth in the charter, which charter shall supersede the terms and provisions of the MOU should a conflict between the documents arise.

(e) Severability. If any provision or any part of this agreement is for any reason held to be invalid and/or unenforceable or contrary to public policy, law, statute and/or ordinance, the remainder of this Agreement shall not be affected and shall remain valid and fully enforceable.

(f) Governing Law. This Agreement shall be governed by and interpreted or construed in accordance with the laws of the State of California, County of Lassen.

(g) Headings. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to define or limit the scope, extent, or intents of this Agreement or any of the provisions hereof.

(h) Notifications. All notices, requests, and other communications under this Agreement shall be in writing and mailed to the proper addresses as follows:

To the District at:

Susanville School District  
109 S. Gilman Street  
Susanville, CA 96130

To the School at:

Long Valley Charter School  
PO Box 7  
Doyle, CA 96109

IN WITNESS WHEREOF, the parties hereto execute this Agreement:

Susanville School District

By \_\_\_\_\_  
Jason Waddell, Superintendent

\_\_\_\_\_  
Date

Long Valley Charter School

By \_\_\_\_\_  
Sherri Morgan, Executive Director/Superintendent

\_\_\_\_\_  
Date

**LONG VALLEY CHARTER SCHOOL  
BOARD RECOMMENDATION FORM**

AGENDA ITEM:      Action Item G-Heating/Air for Portola Resource Center

SUMMARY:

When we did renovations to our building in Portola, the contractor installed a mini split system which was very inexpensive (\$6100) and has proven to be insufficient to meet the low temperatures of this geographic area. While we could seek to work with the manufacturer to make a repair to the unit that is currently not functioning, both units do not work when temperatures are below 40 degrees.

We have received two quotes for replacing the units. Both vendors provided different size units based on their own evaluations.

- Integrity quoted \$13,500 for each 30,000 BTU compressor with (3) 9000 BTU heads with a total of \$27,000
- Sierra Air quoted \$21,400 for a 36,000 BTU compressor with (3) 9000 BTU heads and \$25,730 for a 48,000 BTU compressor with a 9,000, 18,000, and 24,000 BTU heads for a total of \$47,130.

DIRECTOR'S RECOMMENDATION:

Award the replacement and installation to Integrity for \$27,000.00.

Approve as Presented       Disapprove

This action item concerns:

- Long Valley School
- Thompson Peak Charter

**Integrity Heating and Air**

Po box 67  
Chilcoat, CA 96105  
5302493697  
femsoff@gmail.com



## Estimate

**ADDRESS**

Katie Campbell  
Long Valley Charter School  
217 East Sierra Ave  
Portola, CA 96122

**ESTIMATE #** 1382

**DATE** 11/26/2023

**EXPIRATION DATE** 12/12/2023

DATE	DESCRIPTION	AMOUNT
	We are pleased to provide this estimate for the Long Valley Charter School located at 217 East Sierra Avenue in Portola.	13,500.00
	This estimate includes the following: ~Replacing system A with a new Bosch or Mitsubishi 30,000 BTU unit ~Removing existing system A ~Installation of New 030 outdoor unit with three, 9,000 BTU new indoor wall units ~All miscellaneous materials and labor to install	
	<b>TOTAL</b>	<b>\$13,500.00</b>

Accepted By

Accepted Date

**BILL TO**

LONG VALLEY CHARTER SCHOOL  
 217 East Sierra Avenue  
 Portola, CA 96122 USA

<b>ESTIMATE</b> 184087517	<b>ESTIMATE DATE</b> Nov 30, 2023
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**JOB ADDRESS**

LONG VALLEY CHARTER SCHOOL  
 217 East Sierra Avenue  
 Portola, CA 96122 USA

**Project:** 183894414

**ESTIMATE DETAILS**

Replace 1:3 Mini Split - (Unit currently operational): Per tech recommendation (see notes below) estimate is to replace condensing unit and 3 heads for the office, bathroom and back hall. We will remove and dispose of the old units, install new like units and check operation.

" Explained to them that my recommendation is to replace the system and start fresh. The system was poorly installed and both systems had leaked out refrigerant."

If you have questions or wish to proceed please contact your estimator:

Tiffany Martell  
 Cell: 775-250-1476  
 Email: tmartell@sierraair.com

TASK	DESCRIPTION	QTY	PRICE	TOTAL
1	Mini-Split System: <b>Scope of Work</b>	1.00	\$21,400.00	\$21,400.00
	<ul style="list-style-type: none"> <li>Supply and Install (1) 36,000 BTU Mitsubishi Condensing Unit</li> <li>Supply and Install (1) 9,000 BTU Indoor Head</li> <li>Supply and Install (1) 9,000 BTU Indoor Head</li> <li>Supply and Install (1) 9,000 BTU Indoor Head</li> <li>Provide and install new pad for the condensing unit</li> <li>Provide and install new refrigerant line set</li> <li>Provide and install new room thermostat (3)</li> <li>Provide and install condensation drain</li> <li>Provide unit start up and customer training</li> <li>Permits and sales taxes included</li> <li>One-Year parts and labor warranty included</li> </ul>			



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<b>POTENTIAL SAVINGS</b>	\$0.00
<b>SUB-TOTAL</b>	\$21,400.00
<b>TAX</b>	\$0.00
<b>TOTAL</b>	\$21,400.00

**CUSTOMER AUTHORIZATION**

I hereby authorize the above described work to be performed for a total of \$21,400.00. By signing the below, I understand and agree that I am providing my written consent to this Customer Authorization and the Terms and Conditions, and I agree to conduct transactions with and receive communications from Sierra Air electronically.

Sign here

Date

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# TERMS & CONDITIONS

1) **SERVICES NOT COVERED:** Contractor will not perform any other work or trade than that which is specified herein, including but not limited to carpentry, plaster/wall work, electrical work, tile work, landscaping, masonry, flooring, roofing, paving, etc., even if that work is incidental or necessary to the contracted work, or necessary to restore the premises after the repair is made.

2) **CUSTOMER'S RESPONSIBILITIES AND SITE CONDITIONS:** Customer is responsible to supply water, gas, sewer and electrical utilities unless otherwise agreed to in writing. Electricity and water to the site is necessary. Customer shall allow and provide Contractor and its equipment access to the property. Customer is responsible to secure, remove and protect all persons and/or property, and its contents, including but not limited to adults, children, animal, cabinets and their contents, fixtures flooring, walls, tiling, carpet, drapes, furniture, and vegetation, during and upon completion of work, and shall hold harmless and indemnify Contractor against all claims arising out of Customer's failure to do so. Contractor is not responsible for same nor for any carpets, drapes, furniture, driveways, lawns, shrubs, etc. The Customer will point out a warrant the property lines to Contractor.

3) **DELAYS:** Contractor agrees to start and diligently pursue work through to completion, but shall not be responsible for delays for any of the following reasons: failure of issuance of all necessary building permits within a reasonable length of time, act of neglect or omission of Customer or Customer's employees or agent, acts of God, stormy or inclement weather, strikes, lockouts, boycotts or other labor union activities, extra ordered by Customer, acts of public enemy, riots or civil commotion, inability to secure material through regular recognized channels, imposition of Government priority or allocation of materials, failure of Customer to make payments when due, or delays caused by inspection or changes ordered by the inspectors of authorized governmental bodies, for acts of independent Contractors, or holidays, or other causes beyond Contractor's reasonable control.

4) **FEES, TAXES AND ASSESSMENTS:** Taxes, Permits, Fees, and assessments of all descriptions will be paid for by Customer. Required building permits and fees are at the sole expense of Customer. Customer will pay assessments and charges required by public bodies and utilities for financing or repaying the cost of sewers, storm drains, water service, schools and school facilities, other utilities, hook-up charges and the like.

5) **LABOR AND MATERIAL:** Contractor shall pay all valid charges for labor and material incurred by Contractor and used in the construction or repair of the Project. Contractor is excused from this obligation for bills received in any period during which the customer is in arrears in making progress payments to Contractor. No waiver or release of mechanic's lien given by Contractor shall be binding until all payments due to Contractor when the release was executed have been made.

6) **PAYMENTS AND RIGHT TO TOP WORK:** Past due payments shall bear interest at the rate of 11/2 % per month (18% per annum), until paid in full. Contractor shall have the right to stop work if any payment shall not be made when due to contractor under this Agreement; Contractor may keep the job idle until all payments due are received. In the event that collection efforts are initiated against Customer, Customer agrees to pay for all associated fees at the posted rates. If any check tendered by Customer does not clear, Customer can be held liable for three times the amount of the check, in no case more than \$500, nor less than \$100, plus the face value of the check. These remedies are in addition to any other right or remedy that Contractor may have. A failure by customer to make payment, when due, is a material breach of this Agreement.

7) **LIMITATIONS:** No action of any character arising from or related to this contract, or the performance thereof, shall be commenced by either party against the other more than two years after completion or cessation of work under this contract.

8) **ATTORNEY FEES:** In the event that there is any litigation or an arbitration arising out of this Agreement, then the prevailing party shall be entitled to its reasonable attorneys fees and costs.

9) **VALIDITY:** In case one or more of the provisions of this Agreement or any application thereof shall be invalid, unenforceable or illegal, the validity, enforceability and legality of the remaining provisions and any other application shall not in any way be impaired thereby.

10) **ASBESTOS AND HAZARDOUS SUBSTANCES:** Unless the contract specifically calls for the removal, disturbance, or transportation of asbestos, polychlorinated biphenyl (PCB), or other hazardous substances, the parties acknowledge that such work requires special procedures, precautions, and/or licenses. Therefore, unless the contract specifically calls for same, if Contractor encounters such substances, Contractor shall immediately stop work and allow the Customer to obtain a duly qualified asbestos and/or hazardous material Contractor to perform the work or Contractor may perform the work itself at Contractor's option. Said work will be treated as an extra under this contract.

11) **WEATHER AND OTHER DAMAGE:** To the extent that weather may impact the work covered by this agreement, Contractor shall attempt to keep the project reasonably covered during the construction. However, Customer understands that unexpected weather conditions can arise that might cause damage to the project or its contents. Contractor shall not be responsible for any such damage beyond its reasonable control.

12) **LIMITED WARRANTY:** Contractor warrants that all work performed by Contractor and its subcontractors shall be done in a good and workman like manner in accordance with accepted trade practices. Said warranty shall extend for 90 Days on most repairs, 1 Year on new equipment/fixtures and 30 Days on all drain stoppages unless otherwise stated on page one of this contract. The warranties for assemblies, appliances and the like shall be those warranties provided by the manufacturer or supplier of that item rather than based on Contractor's warranty herein. THIS IS THE ONLY WARRANTY PROVIDED BY CONTRACTOR TO CUSTOMER. Customer shall notify Contractor within twenty-four (24) hours of discovery of any warranty claim. CONTRACTOR SHALL RESPOND TO WARRANTY CALLS WITH REASONABLE PROMPTNESS, BUT ONLY BETWEEN THE HOURS OF 8:30

AM TO 4:30 P.M MONDAY THROUGH FRIDAY, EXCLUDING HOLIDAYS, UNLESS OTHERWISE AGREED TO IN WRITING. FAILURE OF CUSTOMER TO NOTIFY CONTRACTOR AS SET FORTH HEREIN SHALL VOID ANY WARRANTIES AFFORDED HEREIN. CONTRACTOR SHALL NOT BE LIABLE FOR WATER OR OTHER DAMAGES RELATING FROM ANY DEFECT OR DELAY IN RESPONDING TO SAID WARRANTY. CONTRACTOR SHALL NOT BE LIABLE FOR ANY LOST PROFITS, INCIDENTAL, SPECIAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY WORK PERFORMED, OR ANY PROBLEM, WHETHER OR NOT COVERED BY THIS LIMITED WARRANTY. NO WARRANTIES SHALL APPLY IF CONTRACTOR WAS NOT PAID IN FULL FOR ALL OF THE WORK IT PERFORMED. TO OBTAIN WARRANTY PERFORMANCE NOTIFY COMPANY OF ANY DEFECT OR CLAIMS FOR BREACH AT THE ADDRESS AND TELEPHONE NUMBER ON THE FACE HEREOF.

**BILL TO**

LONG VALLEY CHARTER SCHOOL  
 217 East Sierra Avenue  
 Portola, CA 96122 USA

<b>ESTIMATE</b> 184087332	<b>ESTIMATE DATE</b> Nov 30, 2023
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**JOB ADDRESS**

LONG VALLEY CHARTER SCHOOL  
 217 East Sierra Avenue  
 Portola, CA 96122 USA

**Project:** 183894414

**ESTIMATE DETAILS**

Replace 1:3 Mini Split : Per customer request estimate is to replace condensing unit and 3 heads for the main entry area, office and garage. Current units are undersized for larger spaces but operational. We will remove and dispose of the old units, install new like units and check operation.

If you have questions or wish to proceed please contact your estimator:

Tiffany Martell  
 Cell: 775-250-1476  
 Email: tmartell@sierraair.com

TASK	DESCRIPTION	QTY	PRICE	TOTAL
1	Mini-Split System: <b>Scope of Work</b> <ul style="list-style-type: none"> <li>• Supply and Install (1) 48,000 BTU Mitsubishi Condensing Unit</li> <li>• Supply and Install (1) 9,000 BTU Indoor Head</li> <li>• Supply and Install (1) 18,000 BTU Indoor Head</li> <li>• Supply and Install (1) 24,000 BTU Indoor Head</li> <li>• Provide and install new pad for the condensing unit</li> <li>• Provide and install new refrigerant line set</li> <li>• Provide and install new room thermostat (3)</li> <li>• Provide and install condensation drain</li> <li>• Provide unit start up and customer training</li> <li>• Permits and sales taxes included</li> <li>• One-Year parts and labor warranty included</li> </ul>	1.00	\$25,730.00	\$25,730.00

<b>POTENTIAL SAVINGS</b>	\$0.00
<b>SUB-TOTAL</b>	\$25,730.00
<b>TAX</b>	\$0.00
<b>TOTAL</b>	\$25,730.00

**CUSTOMER AUTHORIZATION**

I hereby authorize the above described work to be performed for a total of \$25,730.00. By signing the below, I understand and agree that I am providing my written consent to this Customer Authorization and the Terms and Conditions, and I agree to conduct transactions with and receive communications from Sierra Air electronically.

Sign here

Date

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# TERMS & CONDITIONS

1) **SERVICES NOT COVERED:** Contractor will not perform any other work or trade than that which is specified herein, including but not limited to carpentry, plaster/wall work, electrical work, tile work, landscaping, masonry, flooring, roofing, paving, etc., even if that work is incidental or necessary to the contracted work, or necessary to restore the premises after the repair is made.

2) **CUSTOMER'S RESPONSIBILITIES AND SITE CONDITIONS:** Customer is responsible to supply water, gas, sewer and electrical utilities unless otherwise agreed to in writing. Electricity and water to the site is necessary. Customer shall allow and provide Contractor and its equipment access to the property. Customer is responsible to secure, remove and protect all persons and/or property, and its contents, including but not limited to adults, children, animal, cabinets and their contents, fixtures flooring, walls, tiling, carpet, drapes, furniture, and vegetation, during and upon completion of work, and shall hold harmless and indemnify Contractor against all claims arising out of Customer's failure to do so. Contractor is not responsible for same nor for any carpets, drapes, furniture, driveways, lawns, shrubs, etc. The Customer will point out a warrant the property lines to Contractor.

3) **DELAYS:** Contractor agrees to start and diligently pursue work through to completion, but shall not be responsible for delays for any of the following reasons: failure of issuance of all necessary building permits within a reasonable length of time, act of neglect or omission of Customer or Customer's employees or agent, acts of God, stormy or inclement weather, strikes, lockouts, boycotts or other labor union activities, extra ordered by Customer, acts of public enemy, riots or civil commotion, inability to secure material through regular recognized channels, imposition of Government priority or allocation of materials, failure of Customer to make payments when due, or delays caused by inspection or changes ordered by the inspectors of authorized governmental bodies, for acts of independent Contractors, or holidays, or other causes beyond Contractor's reasonable control.

4) **FEES, TAXES AND ASSESSMENTS:** Taxes, Permits, Fees, and assessments of all descriptions will be paid for by Customer. Required building permits and fees are at the sole expense of Customer. Customer will pay assessments and charges required by public bodies and utilities for financing or repaying the cost of sewers, storm drains, water service, schools and school facilities, other utilities, hook-up charges and the like.

5) **LABOR AND MATERIAL:** Contractor shall pay all valid charges for labor and material incurred by Contractor and used in the construction or repair of the Project. Contractor is excused from this obligation for bills received in any period during which the customer is in arrears in making progress payments to Contractor. No waiver or release of mechanic's lien given by Contractor shall be binding until all payments due to Contractor when the release was executed have been made.

6) **PAYMENTS AND RIGHT TO TOP WORK:** Past due payments shall bear interest at the rate of 11/2 % per month (18% per annum), until paid in full. Contractor shall have the right to stop work if any payment shall not be made when due to contractor under this Agreement; Contractor may keep the job idle until all payments due are received. In the event that collection efforts are initiated against Customer, Customer agrees to pay for all associated fees at the posted rates. If any check tendered by Customer does not clear, Customer can be held liable for three times the amount of the check, in no case more than \$500, nor less than \$100, plus the face value of the check. These remedies are in addition to any other right or remedy that Contractor may have. A failure by customer to make payment, when due, is a material breach of this Agreement.

7) **LIMITATIONS:** No action of any character arising from or related to this contract, or the performance thereof, shall be commenced by either party against the other more than two years after completion or cessation of work under this contract.

8) **ATTORNEY FEES:** In the event that there is any litigation or an arbitration arising out of this Agreement, then the prevailing party shall be entitled to its reasonable attorneys fees and costs.

9) **VALIDITY:** In case one or more of the provisions of this Agreement or any application thereof shall be invalid, unenforceable or illegal, the validity, enforceability and legality of the remaining provisions and any other application shall not in any way be impaired thereby.

10) **ASBESTOS AND HAZARDOUS SUBSTANCES:** Unless the contract specifically calls for the removal, disturbance, or transportation of asbestos, polychlorinated biphenyl (PCB), or other hazardous substances, the parties acknowledge that such work requires special procedures, precautions, and/or licenses. Therefore, unless the contract specifically calls for same, if Contractor encounters such substances, Contractor shall immediately stop work and allow the Customer to obtain a duly qualified asbestos and/or hazardous material Contractor to perform the work or Contractor may perform the work itself at Contractor's option. Said work will be treated as an extra under this contract.

11) **WEATHER AND OTHER DAMAGE:** To the extent that weather may impact the work covered by this agreement, Contractor shall attempt to keep the project reasonably covered during the construction. However, Customer understands that unexpected weather conditions can arise that might cause damage to the project or its contents. Contractor shall not be responsible for any such damage beyond its reasonable control.

12) **LIMITED WARRANTY:** Contractor warrants that all work performed by Contractor and its subcontractors shall be done in a good and workman like manner in accordance with accepted trade practices. Said warranty shall extend for 90 Days on most repairs, 1 Year on new equipment/fixtures and 30 Days on all drain stoppages unless otherwise stated on page one of this contract. The warranties for assemblies, appliances and the like shall be those warranties provided by the manufacturer or supplier of that item rather than based on Contractor's warranty herein. **THIS IS THE ONLY WARRANTY PROVIDED BY CONTRACTOR TO CUSTOMER.** Customer shall notify Contractor within twenty-four (24) hours of discovery of any warranty claim. **CONTRACTOR SHALL RESPOND TO WARRANTY CALLS WITH REASONABLE PROMPTNESS, BUT ONLY BETWEEN THE HOURS OF 8:30**

AM TO 4:30 P.M MONDAY THROUGH FRIDAY, EXCLUDING HOLIDAYS, UNLESS OTHERWISE AGREED TO IN WRITING. FAILURE OF CUSTOMER TO NOTIFY CONTRACTOR AS SET FORTH HEREIN SHALL VOID ANY WARRANTIES AFFORDED HEREIN. CONTRACTOR SHALL NOT BE LIABLE FOR WATER OR OTHER DAMAGES RELATING FROM ANY DEFECT OR DELAY IN RESPONDING TO SAID WARRANTY. CONTRACTOR SHALL NOT BE LIABLE FOR ANY LOST PROFITS, INCIDENTAL, SPECIAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY WORK PERFORMED, OR ANY PROBLEM, WHETHER OR NOT COVERED BY THIS LIMITED WARRANTY. NO WARRANTIES SHALL APPLY IF CONTRACTOR WAS NOT PAID IN FULL FOR ALL OF THE WORK IT PERFORMED. TO OBTAIN WARRANTY PERFORMANCE NOTIFY COMPANY OF ANY DEFECT OR CLAIMS FOR BREACH AT THE ADDRESS AND TELEPHONE NUMBER ON THE FACE HEREOF.