MPI INDUSTRIES, LLC - Master Services Agreement

This Master Services Agreement (the "Agreement") is entered into as of this __ day of _____, 20____, Between: _____ (hereinafter 'Contractor'), a Sole Proprietorship____Partnership____Corporation _____Other (Attach W-9) of the State/Commonwealth of _____Social Security No. or Tax ID No.:_____

Name of Contractor's Representative:_____

Principal place of business of Contractor:
Street _____
City:_____
State:_____
Zip Code: _____
Telephone: _____
Fax:_____
Email: _____
Insurance Carriers: (ATTACH COI)

AND

MPI INDUSTRIES, LLC, a New Jersey Limited Liability Company (the "Company"), whose principal place of business is located at 5 Nottingham Way, Turnersville, New Jersey 08012.

RECITALS:

A. Company is in the business of planning, procuring, designing and constructing, among other things, various facilities required by operators of wire-line and wireless telecommunication systems.

B. On an as-needed basis, and solely at the discretion of Company, Company desires to submit to Contractor from time-to-time various Requests for Quotation to build Projects and Contractor desires to receive such Requests for Quotation and provide Company with compliant Bid documents.

C. Company and Contractor desire to enter into this Agreement to reflect the terms and conditions of construction where Company selects and formally notifies Contractor in writing of Company's selection of Contractor to complete a Project, or a portion thereof, and Contractor desires to comply with this Agreement for Work awarded to Contractor by Company.

AGREEMENT:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the parties agree as follows:

1. DEFINITIONS.

As used in or pertaining to this Agreement, the following terms shall have the meanings set forth below:

1.1 **"Bid Documents."** The bid documents submitted by Contractor as part of the competitive bid process regarding the performance of the Work in furtherance of the Project and in response to Company's Invitation to Bid Walk.

1.2 **"Change Order."** A Change Order is a written order to Contractor signed by Company and Contractor, issued after the Notice to Proceed, authorizing a change in the Work, or an adjustment in the Contract Price or the Contract Time.

1.3 **"Change Order Request Form."** The form required for all Change Orders.

1.4 **"Company."** Company is the legal entity identified on the first page of this Agreement.

1.5 **"Company's Representative."** Company's Representative is the person identified on the signature page of this Agreement or, in the absence of such identification, the person identified in the Purchase Order and is authorized to act on behalf of Company with respect to the Contract Documents.

1.6 **"Completion of the Work."** The date upon which Contractor has completed all items listed on the Punch List, the Project is complete and certified as such in writing by Company's Representative.

1.7 **"Construction Change Directive."** A written directive that may be issued by Company to Contractor where Contractor has failed to timely sign a Change Order Request Form proposed by Company, and with which Contractor shall comply in the performance of the Work.

1.8 **"Contract."** The Contract consists of this Agreement and the totality of legally enforceable rights and obligations established by the Contract Documents.

1.9 **"Contract Documents."** The Contract Documents consist of Company's Purchase Order and Notice to Proceed (including, without limitation, any letters or documents between the parties specifically incorporated therein), this Agreement, the applicable Invitation to Bid Walk, Contractor's Bid Documents (to the extent compliant with the Invitation to Bid Walk), the Construction Drawings and Specifications and the other documents listed in Section 2 below, including, without limitation, all addenda, exhibits and schedules thereto issued prior to execution of this Agreement, all documents specifically referenced in any of the Contract Documents, and all Modifications to the Contract Documents made thereafter.

1.10 **"Contractor"** Contractor is the entity identified on the first page of this Agreement.

1.11 **"Contractor's Representative."** Contractor's Representative is the person identified

on the first page of this Agreement or in the Purchase Order and is authorized to act on behalf of Contractor with respect to the Contract Documents.

1.12 **"Contract Price."** The total price payable by Company to Contractor for the Work pursuant to and as set forth in the Contract Documents, subject to Modification as provided by this Agreement.

1.13 **"Contract Time."** The period of time during which the Work must be completed as specified in the schedule set forth in the Notice to Proceed or as otherwise agreed in writing between Company and Contractor.

1.14 **"Drawings."** Drawings, shop drawings, diagrams, illustrations, schedules, sketches, performance charts, brochures and other data that are prepared by Contractor, or any subcontractor, sub-subcontractor, manufacturer, supplier or distributor, and which illustrate, define, or describe any portion of the required Work.

1.15 **"Event of Default."** The events of default are listed in Section 13 of this Agreement.

1.16 **"Field Order."** A written order by Company's Representative for the purpose of either (a) interpretation or clarification of the Specifications, or (b) authorizing and directing minor changes in the Work in accordance with Section 3.4, with no change in either Contract Price or Contract Time.

1.17 **"Information."** All business and/or technical information with respect to Company's operations, business plans and/or intellectual property that Company may from time to time communicate to Contractor, or Contractor may otherwise gain access to in preparation for, or during, the performance of the Work, whether or not such information is marked as confidential or proprietary.

1.18 **"Invitation to Bid Walk."** The written document by which Company invites Contractor to a bid walk for a Project, identifying with particularity the Work Site(s), and generally, the Project parameters and scope of Work required.

1.19 **"Modification."** A Modification of the Contract is (1) a written amendment to the Contract signed by either parties, (2) a Change Order, or (3) a Construction Change Directive.

1.20 **"Notice to Proceed."** A notice from Company to Contractor issued with the Purchase Order for the Work notifying Contractor that Company has selected Contractor to perform the Work and authorizing Contractor to proceed.

1.21 **"Project."** The project to complete a telecommunication system by Company as set forth in the Contract Documents.

1.22 **"Punch List."** The list of items required to achieve Completion of the Work, as prepared by Company and Contractor after Completion of the Work, and as more particularly described in Section 6.14 below.

1.23 **"Samples."** Physical examples furnished by Contractor to illustrate materials, equipment or workmanship, or to establish standards by which the Work will be judged.

1.24 **"Specifications."** The technical and engineering specifications for the performance of the Work as set forth or referenced in the Contract Documents

1.25 **"Subcontractor."** A person or entity that has a direct contract with Contractor to perform or supply any part of the Work, including, without limitation, the supply or lease of any materials or equipment.

1.26 **"Substantial Completion."** The substantial completion of the Work or a designated

portion thereof as certified in writing by Company's Representative when construction is sufficiently complete in accordance with the Contract Documents such that Company may beneficially use the Project or the designated portion thereof for the purpose for which it is intended.

1.27 **"Sub-subcontractor."** A person or entity who has a direct contract with a subcontractor to perform or supply any part of the Work, including, without limitation, the supply or lease of any materials or equipment.

1.28 **"Term."** The use of the word Term shall have the meanings set forth in Section 18 below.

1.29 **"Work."** The term Work includes all labor, material, equipment, services, and supplies necessary for Contractor to complete its obligations as required by the Contract. The Work may constitute the whole or a part of a Project, and may require activity on two or more Work Sites.

1.30 **"Work Site(s)."** The place(s) designated by Company for performance of the Work.

2. BID PROCESS.

2.1 **Invitation to Bid Walk.** Company may be seeking written bids for various works in connection with its construction of telecommunication systems in various local markets. Company may from time-to-time, and solely at Company's discretion, give Contractor an Invitation to Bid Walk regarding a Project in the course of Company's competitive bidding process.

2.2 **Bid Documents.** Contractor shall include in every set of responsive Bid Documents it gives to Company, a price quote for the Work. Company may provide the Contractor with a required format in order to submit the quote. Contractor acknowledges that if it submits Bid Documents that do not contain a price quote in the requested manner, Contractor's Bid Documents may not be considered for the Project.

2.3 **Purchase Order.** If Company selects Contractor for the performance of the Work, Company shall prepare a written Purchase Order, which shall specify modifications made by Company to the Bid Documents. Terms, conditions and specifications contained in this Agreement or in the Purchase Order issued by Company shall supersede all inconsistent provisions of the Bid Documents or any other document provided by Contractor. Contractor acknowledges and agrees that (a) Company shall have the sole discretion of whether to select Contractor for any particular Project, and that Company is not necessarily required to select the lowest-price bidder, and (b) if Contractor is awarded the Work by Company, then Contractor agrees to provide all labor, materials, tools, and other related and necessary equipment and services to perform the Work as described in the Bid Documents and the Specifications.

2.4 **Notice to Proceed.** The Purchase Order shall contain or reference a Notice to Proceed that shall specify a schedule for the completion of the Work. After Contractor acknowledges receipt of a signed Purchase Order and Notice to Proceed, Contractor agrees to perform the Work in accordance with the schedule set forth in the Notice to Proceed or as otherwise agreed in writing between Company and Contractor. The terms and conditions in this Agreement shall apply to any and all Work awarded to Contractor.

3. CONTRACT DOCUMENTS.

3.1 **Exhibits.** The Contract Documents shall specifically include by reference the following exhibits which shall be attached to this Agreement:
Exhibit A - Contractor Safety Checklist
Exhibit B - Unconditional Waiver and Release upon Final Payment

The exhibit forms may be may be modified from time to time to reflect change Industry specifications, standards, technology, or business environment at Company's sole discretion.

3.2 **Significance of Execution.** By executing and submitting the Bid Documents, Contractor represents that it has visited the applicable Work Site(s), familiarized itself with the local conditions under which the Work is to be performed, including, without limitation, the availability of skilled and unskilled labor, and correlated its observations with the requirements of the Contract and into the price quote contained in the Bid Documents. Contractor further represents that it is satisfied that no conditions exist which would prevent Contractor's performance of the Work as required by the Contract, and agrees that Contractor shall not hold Company liable for delays or additional costs incurred by reason of any such conditions, whether known or unknown.

3.3 **Documents Complementary.** The Contract Documents are complementary, and what is required by anyone shall be as binding as if required by all. The intention of the Contract Documents is to include in the Contract Price all labor, materials, equipment, supplies and other goods or services necessary for the proper and total execution of the Work by Contractor.

3.4 **Interpretations.** Contractor may make written request to Company's Representative for written interpretations of the Contract Documents as necessary for the proper execution or progress of the Work. Such interpretations shall be issued in the form of Field Orders and shall be issued with reasonable promptness by Company's Representative.

4. CONTRACT PRICE AND PAYMENT.

4.1 **Contract Price.** The Contract Price shall be as set forth in the Purchase Order issued by Company to Contractor, subject to additions and deductions as permitted by this Agreement. Company agrees to pay Contractor the Contract Price for the Work pursuant to milestones as set forth in the signed Purchase Order (which may include a milestone of Substantial Completion), or if not set forth therein, then pursuant to the terms contained in Section 4.2 below. The Contract Price shall be deemed to include all expenses and costs incurred by Contractor to complete the Work in accordance with the Contract.

4.2 **Conditions of Payment.** Payment shall be made by Company to Contractor no later than 30 days from the date of invoice and COP is approved and accepted so that Company receives payment. If no payment milestones are specified in the Purchase Order, then notwithstanding any provision of this Agreement to the contrary, no payment shall become due until (i) Completion of the Work; and (ii) Contractor has delivered to Company a complete release of all liens arising out of this Agreement or a

bond satisfactory to Company that indemnifies Company against such liens and receipts in full covering all labor, materials, and equipment for which a lien could be filed. If any such lien remains unsatisfied after any payments are made by Company, then Contractor shall refund or pay to Company all money that Company may be compelled to pay in discharging such lien, including all costs, reasonable attorney's fees, and interest at the lesser of eighteen percent (18%) per annum or the maximum amount permitted by law. Neither payment, nor any partial or entire use of the Work by Company or its agents shall constitute an acceptance of any Work that is not in accordance with the Contract Documents and Specifications.

4.3 **Withholding Payment; Payment Retention.** Payment may be withheld by Company on account of (1) failure to complete all Punch List items designated by Company, (2) defective Work not remedied by Contractor, (3) third party claims filed or reasonable evidence indicating probable filing of such c1aim(s), (4) failure of Contractor to make payments properly to subcontractors for labor, materials or equipment, or the failure to obtain all lien releases in recordable form, (5) damage to Company or another Contractor on the Project, (6) failure to carry out the Work in accordance with the Contract Documents, (7) reasonable doubt that the Work can be completed within the Contract Time or for the unpaid balance of the Contract Price, or (8) other breaches of this Agreement or the Contract Documents by Contractor.

4.4 **Final Payment.** Contractor shall submit with Contractor's final invoice a signed copy of Exhibit B to confirm that all subcontractors, Sub-subcontractors and other persons furnishing materials or services in furtherance of the Work, and any other person who might claim a mechanic's lien on the Work through Contractor, have been paid. The invoice for final payment, constituting the entire unpaid balance of the Contract Price, may only be submitted upon Completion of the Work, the full performance of this Agreement by Contractor (there being no breach thereof), including without limitation, the delivery and receipt of all documents required by the Contract to be delivered to Company, and the receipt by Contractor of Company's final inspection and approval of the Work. The acceptance by Contractor of final payment shall constitute a full and complete satisfaction and discharge of Company's obligations under the Contract, and an unconditional waiver of all claims against Company by Contractor, then outstanding, whether known or unknown.

4.5 **Good Title: No Liens.** Contractor warrants and guarantees that good and marketable title to all completed Work covered by any payment made to Contractor, whether incorporated in the Work or not, will pass to the Company upon receipt of such payment by Contractor, free and clear of all liens, claims, security interests or encumbrances whatsoever.

4.6 **Accounts Payable Invoice Processing Procedures:** When the contractor has requested a PO and has completed the project to the vendor's specifications, the contractor may at that time submit an invoice for approval/payment via email to invoices@mpiindustries.com . Please see "Conditions of Payment" for payment details.

5. CONTRACTOR DUTIES AND RESPONSIBILITIES.

5.1 **Performance to Company's Satisfaction.** Contractor shall perform the Work to the satisfaction of Company (and the decision of Company shall be final), and in accordance with all applicable federal, state or local codes, ordinances, rules, regulations, orders, and requirements, the Bid Documents and the terms of the Contract Documents. Contractor shall immediately remove all portions of the Work and all materials found by Company as being improper, unsound or not in conformity with the Drawings or Specifications, and Contractor at its own expense shall make such Work satisfactory to Company.

5.2 **Supervision of Work.** Contractor shall perform, supervise and direct the Work, using Contractor's best skill and attention, as an independent Contractor and not as an employee of Company. 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, unless the Contract Documents give other specific instructions concerning any particular matter.

6.3 **Labor, Materials & Equipment.** Unless otherwise expressly provided in the Contract Documents hereto, Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

6.4 **Skills and Professionalism of Employees.** Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Agreement. Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

6.5 **Work, Materials and Equipment Warranty.** Contractor represents and warrants to Company that (i) all materials and equipment furnished under this Agreement will be of good quality and new unless otherwise specifically required or permitted by the Contract Documents, (ii) the Work will be free from defects in materials and workmanship, (iii) the Work will conform with the requirements of the Contract Documents, and (iv) the Work will be fit for its intended purpose. Work not conforming to the Specifications or to these warranties, including substitutions not properly approved and authorized, may be considered defective by Company. If required by Company, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment in the form of Samples, in which case the actual materials and equipment supplied shall conform to or exceed the quality of the Samples. The approval of Drawings or Samples by Company's Representative shall not relieve Contractor from responsibility for errors or omissions in the Drawings or Samples or the nonconformity of the Work with the Specifications. Company may, without limiting its other remedies under this Agreement, the Contract Documents, or at law or equity, withhold any money due Contractor until any defective Work is remedied by Contractor to Company's satisfaction.

6.6 **Other Contractor Warranties.** Contractor represents and warrants that (i) Contractor is financially solvent, able to pay its debts as they become due and possessed of sufficient working capital to complete the Work in accordance with the Contract, (ii) Contractor is authorized to do business and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it to perform the Work under the terms of this Agreement at the Work Site(s), (iii) Contractor's execution of this Agreement, acceptance of any Purchase Orders and performance of Contractor's obligations hereunder does not now and will not in the future violate any agreement between Contractor and any third party, or any obligation of Contractor to any third party, including, without limitation, any non-compete agreement or obligation.

6.7 **Taxes; Permits.** Unless otherwise expressly provided in the Contract Documents, Contractor shall pay all sales, consumer, use, gross receipts, payroll, unemployment, disability and any other Federal, state or local taxes required by any law to be paid in respect to the performance of Contractor's duties hereunder, and shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

6.8 **Compliance with Laws.** Contractor shall comply with and give all notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on the performance of the Work. Further, Contractor warrants that it and its employees have all necessary licenses and permits to perform the Work and shall maintain such licenses and permits during such performance. Contractor shall promptly notify Company if the Drawings or Specifications are observed by Contractor to be in variance with any laws, ordinances, rules, regulations or lawful order of public authorities. It is the responsibility of Contractor to ensure that all of Contractor's Work complies with all applicable laws and regulations, including, without limitation, all federal, state and local health and safety laws and regulations (e.g., OSHA regulations), and that Contractor's subcontractors and suppliers also meet the same requirements.

6.9 **Clean Work Site.** During the course of the Work, Contractor shall keep the Work Site(s) free from the accumulation of any waste material, dust and rubbish, and at the completion of the Work shall remove from the Work Site(s) all of Contractor's rubbish, implements and surplus materials. Contractor understands that it is intended hereby that the standard of cleanliness required is cleaner than "broom clean," as that term is commonly used and that, upon completion thereof, should Contractor fail to so clean the Work Site(s) to Company's satisfaction either during the course of the Work or upon completion thereof, Company shall have the right (but not the obligation) to clean the Work Site(s) and charge the cost of such cleaning to Contractor.

6.10 **Injuries.** All injuries on the Work Site(s) are to be documented and reported in writing to Company immediately.

6.11 Indemnification.

6.2.1 Contractor hereby agrees to indemnify, defend and hold Company harmless for, from and against any and all claims, damages, losses and expenses, including, but

not limited to, reasonable attorneys' fees and expenses, arising out of or resulting from (a) Contractor's breach of the Contract, (b) the conduct of Contractor's business within or outside the scope of the Contract, (c) any negligent act or omission or willful misconduct of Contractor, (d) any claim of infringement of any intellectual property right, with respect to the Work or the use of the products generated by, or related to, the Work, including, but not limited to, trademark, trade name, service mark, copyright, and patent, or (e) any of the foregoing with respect to any of Contractor's employees, agents, subcontractors or sub-subcontractors.

6.2.2 In the event Company notifies Contractor of any claim that the Work, including the design, materials, workmanship, equipment and its individual components, individually or collectively, and the process produced thereby, infringes any patent, copyright or trademark or constitutes a misappropriation of trade secrets, Contractor shall, at its sole cost and expense, procure for Company the right to use, possess and operate the Work as originally intended and described in the Contractor Documents. In the event Contractor is unable to procure such right for Company, Contractor shall, at its sole cost and expense, modify the Work to make it non-infringing unless such modifications may, in Company's opinion, result in a loss of utility, higher operating costs, or a reduction in the quantity or quality of the end product.

6.2.3 Contractor shall pay all fines, penalties, and other similar charges which may be imposed upon it or Company because of the failure of Contractor or its respective officers, agents, employees or subcontractors in the course of the Work to adhere to applicable federal, state or local laws, ordinances, rules, regulations, or building and safety codes. Contractor shall give Company immediate notice of, and Contractor shall defend, all charges, notices of violation, claims, proceedings and investigations involving Company, its officers, agents, or employees for, from and against all such fines, penalties, and other similar charges.

6.2.4 If notice of any laborer's, materialmen's, mechanic's, or other construction or similar lien is given or if any such lien is filed by any person, firm, or corporation having a Agreement, expressed or implied, direct or indirect, with Contractor to supply materials or perform services for the Work, Contractor shall immediately cause such notice of lien, or lien, to be released and discharged, or shall file a bond in lieu thereof in a form and amount satisfactory to Company. Contractor shall indemnify, defend and hold Company harmless for, from and against any such liens. Company may pay any and all sums necessary to obtain such release and discharge and recover such payments, including interest and attorneys' fees and costs, from Contractor by deducting same from the Contact Price or by separate billing.

6.2.5 Contractor shall further defend, hold harmless and indemnify Company (with counsel of Company’s choosing) for, from and against any and all suits, claims, actions or liabilities whatsoever, including reasonable attorneys' fees and expenses, incurred in connection therewith or with successfully establishing the right of indemnification hereunder which arises out of breach or default by Contractor in performance of any obligation to be performed by Contractor under

this Agreement.

6.12 **Contractor's Representative; Authority.** Prior to the commencement of any Work hereunder, Contractor shall identify to Company, in writing, the name and scope of authority of Contractor's Representative who shall have responsibility to manage the performance of Contractor's obligations hereunder, and shall have authority to agree to Modifications. If Contractor does not designate its representative for any particular Project, then Contractor Representative identified on the first page of this Agreement shall serve in such capacity. Contractor shall promptly notify Company in writing of any change in the name or scope of authority of Contractor's Representative during the term of this Agreement.

6.13 **Responsibility for Those Performing the Work.** Contractor shall be solely and entirely responsible to Company for the acts and omissions of all Contractor's employees and agents, and of all subcontractors and sub- subcontractors, their agents and employees, and all other persons and entities performing portions of the Work directly or indirectly under an agreement with Contractor. If any part of Contractor's Work depends for proper execution or results upon the Work performed by any third party not in privity of contract with or otherwise under the control of Contractor, Contractor shall inspect and promptly report to Company's Representative any apparent discrepancies or defects in such Work that render it unsuitable for Contractor's proper execution of the same.

6.14 **Completion of Work; Inspection of Work; Punch List.** Upon completion of the Work, Contractor shall prepare and submit to Company's Representative a notice that all construction is complete. This may be required by use of a Company prepared form. Company shall thereafter conduct an inspection to verify that the Work has been completed in accordance with the terms of the Contract Documents. Based on the results of the inspection, Company shall prepare a Punch List of items requiring completion or correction. Contractor shall complete all items on the Punch List to Company's reasonable satisfaction within seven (7) days of receiving the Punch List.

6.15 **Communications.** Contractor shall forward all communications to Company through Company's Representative.

6.16 **Confidentiality of Information.** Contractor shall handle, use, treat and utilize the Information as follows: (a) hold all Information in strict confidence; (b) use the Information only for the purpose of evaluating the proposed Project, preparing Bid Documents and performing the Work awarded to Contractor, (c) reproduce such Information only to the extent necessary for such purposes, (d) restrict disclosure of such Information to Contractor's employees and subcontractors who have agreed to a confidentiality obligation similar to or better than this Section and who have a need to know to further a purpose of this Agreement; and (e) not disclose such Information to any other third party, including, but not limited to, any manufacturer or independent Contractor, without prior written approval of Company. In addition, with respect to any equipment, component, software, or other items delivered to Contractor by Company, Contractor shall not reverse engineer, disassemble, decompile, or otherwise analyze the physical construction of, any such items. The restrictions on Contractor's use and disclosure of the Information as set forth in this Section shall not apply to any Information which Contractor can demonstrate: (i) is wholly and independently developed by Contractor without the use of any Information, (ii) is or has become generally available to the public without breach of this Agreement; (iii) at the time of disclosure to Contractor, was

known to Contractor free of restriction and evidenced by documentation in Contractor's possession; (iv) is approved for release by written authorization of Company, but only to the extent of and subject to such conditions as may be imposed in such written authorization; or (v) is disclosed in response to a valid order of a court or other governmental body in the United States or any political subdivision thereof, but only to the extent of and for the purposes of such order; provided, however, that Contractor shall first notify Company in writing of such order and permit Company to seek an appropriate protective order. Contractor agrees that any use of any of the Information in violation of this Agreement will cause irreparable injury to Company for which it would have no adequate remedy at law. Accordingly, Company shall be entitled to immediate injunctive relief prohibiting any violation of this Agreement, in addition to any other rights and remedies available to Company. All Information shall remain the sole property of Company, and all materials containing any Information (including all copies made by Contractor) shall be returned to Company immediately upon termination or expiration of this Agreement or upon Company's determination that Contractor no longer has a need for such Information. Upon request of Company, Contractor shall certify in writing that all materials containing such Information (including all copies thereof) have been returned to Company.

6. ADMINISTRATION BY COMPANY.

6.1 **Company's Representative.** Company, whether through its own employees or through consultants or other representatives designated by Company, shall administer this Agreement. On the signature page of this Agreement, or in the absence of such designation, in the Purchase Order, Company shall designate the name, address, and telephone number of the person or persons who shall act as Company's Representative during the progress of the Work. Company may change such designation by notice to Contractor. Contractor shall direct all communications, notices, and requests for payment, submittals, and other correspondence to Company's Representative for the Work. If more than one person is so specified, Contractor shall send all such documents to all of them.

6.2 **No Exclusivity.** Company reserves the right to perform construction or operations related to the Work and/or the Project with Company's own forces, and to award separate Agreements in connection with other portions of the Project or other construction or operations on the Work Site(s) on such terms as in Company determines in its sole discretion.

6.3 **Coordination with Contractor.** Contractor shall afford Company and separate Contractor's reasonable opportunity for the introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate Contractor's construction and operations.

7. SUBCONTRACTORS.

7.1 **Exclusion of Subcontractors.** Work performed under this Agreement may not be subcontracted by the Contractor without the advance written approval of the Company. Any attempt by the Contractor to subcontract without the prior consent of the Company may be deemed a material breach of this Contract.

7.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly to the Company:

8.2.1 A description of the work to be performed by the subcontractor;

8.2.2 A copy of the proposed subcontract; and

8.2.3 Other pertinent information and/or certifications the Company requires of Contractor, including, but not limited to, insurance requirements and all safety requirements.

8.3 The Contractor shall ensure delivery of all such documents to the Company and receive written approval from the Company before any subcontractor employee may perform any work hereunder. 8.4 The Contractor shall remain fully responsible for all performances required of it under this

Agreement, including those that the Contractor has determined to subcontract.

8.5 The Contractor shall be solely liable and responsible for all payments or other compensation to all subcontractors and their officers, employees, agents, and successors in interest arising through services performed hereunder, notwithstanding the Company's consent to subcontract.

8.6 In the event Company should consent to subcontracting each and all of the provisions of this Contract and any amendment thereto shall extend to and be binding upon and inure to the benefit of the successors or administrators of the respective parties.

8.7 The Contractor shall obtain all Certificates of Insurance, which establish that the Subcontractor maintains all the programs of insurance required by the Company, from each approved Subcontractor.

8.8 The Contractor shall indemnify, defend, and hold harmless Company from any and all liability arising or resulting from the employment of any subcontractors and their employees in the same manner as for the Contractor's own employees and performance.

8. CHANGE ORDERS.

8.1 **Change Order Requests.** Company or Contractor, without invalidating the Contract, may request changes in the Work consisting of additions, deletions or modifications pursuant to a completed written change order form, signed by an authorized representative of Company or Contractor. Such change order shall set forth with particularity the changes in the Work required and any corresponding changes to the Contract Price or Contract Time. Change Order approval, if granted (in whole or in part), will be communicated by Company to Contractor through execution of the Change Order AND an approved written Purchase Order from Company.

8.2 **Construction Change Directive.** If Contractor refuses to sign a Change Order prepared by Company, Company may issue a Construction Change Directive to Contractor that is signed by Company. Contractor shall comply with such Construction Change Directive and any dispute over any change in Contract Price or Contract Time shall be resolved pursuant to the arbitration provision of this Agreement. Contractor shall not stop work pending resolution, but shall comply with the Construction Change Directive.

8.3 **Notice of Potential Changes.** Contractor shall notify Company within five (5) working

days after learning about any claim, change to scope of Work, or change to the Work schedule or Contract Time. Contractor's failure to provide timely notification will result in a waiver by Contractor of any such claim, change of scope of Work, or change to the Work schedule or Contract Time.

8.4 **Validity of Modifications.** *ALL MODIFICATIONS OF THE CONTRACT MUST BE SUBMITTED IN WRITING AND SIGNED BY COMPANY TO BE VALID. ALL PROPOSED CHANGES MUST BE SUBMITTED IN WRITING, INCLUDE A TOTAL COST OR UNIT PRICE AND BE APPROVED BY COMPANY IN WRITING.*

9. TIME.

9.1 **Time of the Essence.** It is expressly agreed that TIME IS OF THE ESSENCE in the performance of the Work, and Contractor agrees that, by executing this Agreement, and commencing the Work under a Purchase Order, Contractor will comply with the Contract Time set forth in the Notice to Proceed.

9.2 **Force Majeure.** If Contractor is delayed at any time in the progress of the Work by labor, dispute, fire, unusual delay in delivery not the fault of Contractor, abnormal adverse weather conditions not reasonably anticipated, unavoidable casualties or other causes beyond Contractor's reasonable control (provided that Contractor's inability to pay money shall not be considered beyond its reasonable control) and not reasonably ascertainable in advance of proceeding with the Work, then the Contract Time shall be extended by Change Order for such reasonable time as Contractor and Company shall agree. The failure of Company and Contractor to agree on such extensions shall not be cause for stopping the progress of the Work. Contractor's sole remedy for any delay pursuant to this Section shall be an extension of the Contract Time; and Company shall not be liable for any delay costs or expenses whatsoever.

10. ARBITRATION.

Any dispute not resolved shall be settled and decided by binding arbitration conducted in accordance with the American Arbitration Association's fast track Construction Industry Dispute Resolution Procedures (Arbitration Rules) as amended and effective on September 1, 2000, and as may be amended from time to time thereafter.

a) Prior to filing any claims for binding arbitration (as provided below), the Parties shall in good faith first negotiate a written resolution of such dispute or claim for a period not to exceed thirty (30) days from the date of receipt of a Party's request for such negotiation. Executives or managers of each Party who have the authorization to resolve any such dispute or claim shall conduct such negotiations. In the event the Parties cannot negotiate a written resolution to such dispute or claim during the thirty (30) day negotiation period provided hereunder, either Party may submit the matter to binding arbitration in accordance with the provisions of this Section.

b) A single, mutually agreeable arbitrator engaged in the practice of law and knowledgeable about telecommunications law and construction practices shall conduct the arbitration in accordance with the then current commercial arbitration rules of the American Arbitration Association ("AAA"), If mutual agreement is not reached on the selection of an arbitrator within fifteen (15) days after written request therefore, then such arbitrator shall be selected by the American Arbitration Association. The

arbitrator shall not permit discovery, other than the exchange of documents, and shall make its determination within sixty (60) days after its appointment.

c) All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall state the reasoning by which the arbitrator determined the award. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.

d) Each Party shall pay its own costs and expenses incurred in connection with the arbitration, including legal fees, and each Party shall pay one-half the arbitrator's professional fees.

11. INSURANCE.

Contractor shall maintain the following insurance coverage in full force during the term of this Agreement or as otherwise directed:

11.1 **Workers' Compensation and Employer's Liability Insurance.** Workers' compensation insurance shall be provided as mandated by state law where the Work Site(s) is located for all Contractor employees and subcontractor employees. Employer's liability insurance shall be provided in amounts not less than: (a) $1,000,000 each accident for bodily injury by accident; (b) $1,000,000 policy limit for bodily injury by disease; and (c) $1,000,000 each employee for bodily injury by disease.

11.2 **General Liability Insurance.** Contractor shall carry comprehensive general liability insurance covering all operations by or on behalf of Contractor for third party bodily injury and property damage liability, including broad form property damage and explosion, collapse and underground hazards. Limits of liability shall not be in amounts less than: (a) $1,000,000 per occurrence $2,000,0000 annual general aggregate for premises/operations and contractual liability; (b) $2,000,000 per occurrence annual aggregate for products completed operations; (c) $1,000,000 per occurrence annual aggregate for personal advertising injury; and (d) $10,000 medical expense limit. Coverage shall be written with a per Work Site aggregate.

Company, its officers, directors, and employees shall be named as additional insured's and Contractor waives all claims of subrogation against Company.

11.3 **Automobile Insurance.** Contractor shall carry automobile liability insurance, including coverage for all owned, hired and non-owned automobiles. The amount ofcoverage shall not be less than $1,000,000 combined single limit each accident for bodily injury and property damage. Coverage shall include automobile contractual liability.

11.4 **Property Insurance.** Contractor will contact Company's Risk Management Department on any major projects for property insurance requirements. Unless waived by Company's Risk Management Department, Contractor shall purchase and maintain property insurance upon the entire Work at the Work Site(s) to the full insurable value thereof. This insurance shall insure the respective interests of Company, Contractor, subcontractors, and sub-subcontractors in the Work in broad form against the perils of fire, flood, windstorm, vandalism, and malicious mischief. Any insured loss is to be adjusted with Company and made payable to Company as trustee for the insured, as their respective interests may appear. Such insurance shall have a deductible amount of no more than $50,000. Payment of any deductible amount shall be the responsibility of the party causing the damage.

11.5 **Umbrella/Excess Insurance.** Contractor shall maintain an excess insurance policy providing coverage excess of Comprehensive general liability and automobile liability in an amount not less than $5,000,000. Company, its officers, directors, and employees shall be

named as additional insured and Contractor waives all claims of subrogation against Company.

11.6 **Certificates of Insurance.** Certificates of insurance, as evidence of the insurance required by this Agreement, shall be furnished by Contractor to Company before any Work is commenced. The certificates of insurance shall provide that there will be no cancellation or modification of the coverage or terms without thirty (30) days' prior written notice to Company. An additional insured endorsement shall accompany the certificates of insurance designating Company, its officers, directors, and employees as additional insured's to the extent required herein.

11.7 **Insurance Company.** All policies shall be written by insurance companies licensed to issue policies in the state where the Project is located and with an AM Best rating of no less than A-.

11.8 Mutual Release. Contractor and Company hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured there under. In the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other.

12. TERMINATION/EVENT OF DEFAULT.

12.1 **Events of Default by Contractor.** It shall be an Event of Default hereunder if any of the following occur:

a) Contractor shall institute proceedings or consent to proceedings requesting relief or arrangement under the Federal Bankruptcy Act or any similar or applicable Federal or State law;
b) A petition under any Federal or State bankruptcy or insolvency law is filed against Contractor and such petition is not dismissed within sixty (60) days from the date of said filing;
c) Contractor admits in writing its inability to pay its debts generally as they become due or becomes insolvent;
d) A receiver, liquidator, trustee or assignee is appointed for Contractor;
e) Contractor abandons the Work;
f) Contractor fails to prosecute promptly and diligently the Work or to supply enough properly skilled workmen or proper materials for the Work;
g) Contractor submits an application for payment, sworn statement, waiver of lien, affidavit or document of any nature whatsoever which is intentionally falsified;
h) Contractor fails to make prompt payment to subcontractors or for materials or labor or otherwise breaches its obligations with any subcontractor;
i) A mechanic's or material men's lien or notice of lien is filed against any part of the Work or the Project and not promptly removed, bonded, or insured over by Contractor in a manner satisfactory to Company;
j) Contractor violates any laws, statutes, ordinances, rules, regulations or orders of any governmental body or public or quasi-public authority having jurisdiction of the Work or the Work Site(s); or
k) Contractor otherwise violates any provision of this Agreement or the Contract Documents which violation is not cured within ten (10) days after written notice from Company to Contractor.

12.2 **Default by Company.** Any of the following shall be deemed an Event of Default by Company under this Agreement: Company's failure to (i) timely pay undisputed invoiced

fees in accordance with the procedures set forth in this Agreement; or (ii) comply with any of the terms of this Agreement. Contractor shall promptly notify Company in writing of any such default and Companyshall have thirty (30) days after receipt of such written notice to cure such default.

12.3 **Termination in Event of Default.** Either Party may terminate this Agreement upon ten (10) days prior written notice to the other Party of an Event of Default.

12.4 **Remedies for Event of Default.** Upon an Event of Default, Company, without prejudice to any right or remedy available to Company under this Agreement or the Contract Documents or at law or in equity, may, upon written notice, terminate the engagement of Contractor. In case of such termination, Contractor shall not be entitled to receive any further payment for Work performed by Contractor through the date of termination. Upon an Event of Default, Company may also, without terminating this Agreement, make good any deficiencies in Contractor's work and may deduct the cost from the payment then or thereafter due Contractor. Alternatively, at Company's option, if Company terminates this Agreement, it may take possession of the Work Site and of all materials, equipment, tools, construction equipment and machinery thereon owned by Contractor and may finish the Work by whatever method Company may deem expedient or appropriate. If requested by Company, Contractor shall remove any part or all of its equipment, machinery and supplies from the Work Site(s) within seven (7) days from the date of such request, and in the event of Contractor's failure to do so, Company may have the equipment, machinery and supplies removed and stored at Contractor's expense. If the unpaid balance of the Contract Price is less than the cost of finishing the Work or other damages incurred by Company, Contractor shall pay the difference to Company. Company's rights and remedies in this Section shall be in addition to any other rights or remedies at law, equity, or under this Agreement or the Contract Documents. 13.5 **Termination for Convenience.** Notwithstanding anything to the contrary contained in this Agreement, Company may terminate this Agreement upon five (5) days' notice to Contractor, without cause, for Company's convenience. In such an event, Company shall pay for Work completed through the effective date of the termination. Upon such termination for convenience, Contractor shall promptly transfer all supplies, equipment, materials, and the Work Site in good order and cooperate with Company in any transition of Work.

13.6 **Procedure upon Termination.**

a) Upon the expiration or termination of this Agreement, Contractor shall promptly return to Company, or destroy, as Company may direct, all of Company's property in Contractor's possession. Each Party shall render to the other such reasonable assistance as may be necessary for the orderly continuation of the other Party's business.

b) If Company terminates this Agreement or any Services to be performed hereunder for any reason other than Contractor's breach of any terms or conditions of this Agreement which has not been cured within the applicable cure period, Contractor shall be entitled to payment, for its Services rendered and reasonable expenses incurred in connection with the Work Orders up until the date of such termination. If the Services are compensated on a fixed fee per site basis, then Company shall compensate Contractor for any completed milestones in accordance with the payment terms for such Services provided, however, such payment shall be limited to an equitable amount based upon the total payment that would have been due in connection with the completion of such milestone and the progress Contractor has made towards completion of such milestone, and in no event shall the payment for Services relative to a milestone that has not been completed exceed the payment due in connection with the completion of such milestone iii. Upon the expiration or termination of this Agreement for any reason whatsoever, Company shall be forthwith entitled to all documentation specified in

Paragraph 5 of this Agreement.

14. PROTECTION OF PERSONS AND PROPERTY.

14.1 **Safety Program.** Contractor shall have and maintain a safety program addressing all applicable safety concerns and furnish a copy to Company upon request. Contractor shall complete and gain Company approval of the submittals requested through the Contractor's Safety Checklist the form of which is set forth in Exhibit A of this Agreement, prior to the commencement of any work under this Agreement. Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of this Agreement and the Work, and complying with all applicable state and federal laws, ordinances, rules, regulations, and orders related to persons on the Work Site(s), including, without limitation, OSHA regulations. Contractor shall take all reasonable precautions for safety of, and shall provide reasonable protection to, and shall prevent damage, injury or loss to: (a) employees and agents on the Work Site(s) and other persons who may be affected thereby; (b) the Work and materials and equipment to be incorporated therein; and (c) other property at the Work Site(s) or adjacent thereto. Contractor shall be responsible for completing and having at each Work Site a site- specific fall protection plan.

14.2 **Compliance.** Contractor shall comply with all applicable Company, local, state, and federal safety regulation. In the event that Contractor fails to maintain compliance, Company will retain the right to take corrective actions, including, but not limited to, the assessment of penalties.

14.3 **Radio Frequency Safety Program.** Contractor shall implement a general radio frequency emissions safety program and create a site-specific radio frequency safety program for each Work Site, both of which shall be posted at each Work Site when Contractor or subcontractor's personnel are working in radio frequency emissions environments.

14.4 **Safety Meetings.** Contractor shall conduct a safety meeting at each Work Site before work begins at the particular Work Site. Documentation of the safety meeting shall be made available to Company upon request.

14.5 **Safety Inspections.** Company has the right to perform, or have an agent perform on its behalf, periodic random safety inspections of the Work Site(s), without prior notice to Contractor. Such safety inspection results shall be available to Company; otherwise such results will be deemed confidential material. If Company becomes aware of a safety violation, Company may require Contractor to provide additional safety precautions at Contractor's expense, including, but not limited to, onsite safety supervisors.

14.6 **Right to Stop Work for Safety Violations.** Without limiting any of Company's other rights under this Agreement or the Contract Documents, Company shall retain the right to stop the construction activities of Contractor at any time on the basis of work quality (standard construction practices) or concerns about safety with respect to Contractor or any of its subcontractors.

15. UNFORESEEN CONDITIONS, ADDITIONAL COSTS, AND INADEOUATE BID.

15.1 **Precedence of Documentation.** If Contractor's Bid Documents do not cover all the Work as may be contained in Company-provided documents, then any additional costs and expenses to complete those components of the Work shall be the responsibility of Contractor

and Contractor shall provide such components of the Work at its own cost. Company will not approve a Change Order covering such work by Contractor. If Contractor's Bid Documents omit or amend any term contained in this Agreement, Contractor is not excused from complying with this Agreement. If some or all of Contractor's Bid Documents do not comply or are inconsistent with requirements set forth in Company-provided documents or in other aspects of this Agreement, Contractor is not excused from complying with this Agreement and Company-provided documents unless Company has specifically agreed to such modification.

15.2 **Prior Examination of Work Site(s).** Contractor has carefully and thoroughly examined the Work Site(s), the nature and location of the Work, the local conditions, particularly those bearing on availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads, and uncertainties of weather, or similar physical conditions at the Work Site(s), the conformation and conditions of the ground, the character of equipment and facilities needed prior to and during the prosecution of the Work, the difficulties of making and maintaining any required excavations, and all other matters required to perform the Work. Contractor has satisfied itself as to the character, quality, and quantities of Work to be performed, materials to be furnished, and as to the requirements of the Contract. Contractor has used its own judgment obtaining and interpreting any necessary investigations or tests of the Work Site(s). By signing this Agreement and accepting the applicable Purchase Order, Contractor certifies that it has made such examination and is satisfied as to the conditions to be encountered in performing the Work, and as to the requirements of the Contract.

15.3 **Risk of Changed Conditions.** It is the express intent of the parties to this Agreement that Contractor bear the risk and full cost of any unexpected, concealed, or changed conditions encountered at the Work Site(s), whether such conditions be related to the physical characteristics of the Work Site(s), inclement weather, availability of labor, location of utilities, or any other unexpected or unanticipated condition or event. Contractor shall not receive additional compensation from Company for any such unexpected or changed conditions.

15.4 **Subsurface Investigations.** It is further understood that Contractor is solely responsible for requiring and obtaining any necessary subsurface investigations and tests of the Work Site(s), including information regarding each Work Site's projected soil-bearing values, rock profiles, soil stability and the present, level, and extent of underground water. Company makes no warranties and Contractor should not rely upon information provided to Contractor regarding the subsurface conditions of the Work Site or any investigations or tests provided to Contractor. Company makes no warranties on information obtained by Contractor regarding the subsurface conditions of the Work Site or any investigations or tests obtained by Contractor at the Work Site. Contractor is responsible for reviewing and evaluating all such information, regardless of the source of the information, with the knowledge and due diligence of a construction professional, and to advise Company of any conditions Contractor believes to be incorrect or inconsistent with the investigations and/or tests obtained. Information derived from inspection of test results, of topographic maps, or from plans showing location of utilities and structures will not in any way relieve Contractor from any risk, or from properly examining the Work Site(s) and making such additional investigations as it may elect, or from properly fulfilling all the terms of this Agreement and will be included in Contractor's Bid Documents.

16. MISCELLANEOUS.

16.1 **Governing Law/Venue and Jurisdiction.** This Agreement shall be governed by the Laws of the State of New Jersey and Subcontractor hereby consents to the jurisdiction of any court of competent jurisdiction within such State.

16.2 **Independent Contractor.** Contractor is an independent Contractor to Company under this Agreement. Nothing in this Agreement shall be deemed to create a relationship of employer/employee, principal-agent, partner, or joint venture between Contractor and Company. Neither party has any authority to bind the other to any Agreement or agreement without the other's written permission. Contractor shall operate an independent business and agrees to be responsible for all of Contractor's federal and state and local taxes; withholding, social security, insurance, and other benefits. Upon request, Contractor shall provide Company with satisfactory proof of independent Contractor status (including, without limitation, applicable business licenses). Contractor further warrants that, in the event the Internal Revenue Service or any other state or local agency determines that Contractor is a common law employee of Company and therefore subject to withholding and payroll taxes (e.g., federal income tax, FICA, FUTA, etc.), Contractor shall fully indemnify Company for all such withholding and payroll taxes, and associated interest and penalties, if any, assessed against Company in connection with such determination.

16.3 **Entire Agreement.** This Agreement, together with the Contract Documents and exhibits thereto, constitutes the complete agreement between Company and Contractor with respect to the subject matter hereof and supersedes any prior oral or written negotiations or agreements relating to any Work. In the event there is a conflict between Contractor's Bid Documents and other aspects of this Agreement, those other aspects of this Agreement shall prevail.

16.4 **Headings.** The headings and subheadings used herein are for convenience only and are not part of the Agreement.

16.5 **Authority.** The persons executing this Agreement for Contractor and Company represent and warrant that they have all necessary company authority to execute this Agreement and bind the respective contracting party.

16.6 **Remedies.** The parties agree that damages may be inadequate to compensate for the unique losses to be suffered in the event of a breach hereof by Contractor, and that Company will be entitled, in addition to any other remedy it may have under this Agreement or at law, to seek and obtain injunctive relief and other equitable relief, including specific performance of the terms of this Agreement, without the necessity of posting bond.

16.7 **Severability.** If any provision of this Agreement is held to be invalid or unenforceable, then it shall be deemed severed from this Agreement and a replacement provision shall be deemed included herein to replace such severed provision and to enforce the severed provision to the maximum extent permitted by law.

16.8 **Non-Conflict of Interest.** MPI INDUSTRIES, LLC expressly reserves the right to contract with others to obtain services similar or identical to those provided in this Agreement and Contractor expressly reserves the right to contract with others to provide services similar or identical to those provided in this Agreement, provided, however, that Contractor shall not engage in any work during the term of this Agreement that creates an actual conflict of interest

with MPI INDUSTRIES, LLC, and shall not, during the term of this Agreement and for a period of three (3) years after the termination or expiration of this Agreement, information concerning MPI INDUSTRIES, LLC's confidential business, marketing, strategic, staffing, or financial information acquired by Contractor in the course of providing the Services.

17. SOLICITATION OF EMPLOYEES.

Contractor agrees that, during the Term of this Agreement, and for one (1) year after the termination of this Agreement, it shall not solicit nor accept for employment any employees of Company, without first obtaining the express written prior consent of Company. Notwithstanding the foregoing, Contractor is not prohibited from accepting employment of the other party's employee, if such employment arises from the such employee's responding to a general solicitation on the part of the hiring party (by way of example only, an internet posting, newspaper advertisement, or headhunter engagement.)

18. TERM OF AGREEMENT

The term of this Agreement shall be five (5) years from the Effective Date unless otherwise terminated in accordance with this Agreement (the "Initial Term"), provided however that in the event the Agreement terminates for non-renewal, Contractor shall perform all executed Purchase Orders dated prior to the date of such termination in accordance with the Agreement, unless otherwise directed in writing by Company. Company may, at its sole option, renew this Agreement after the Initial Term for additional successive terms of one (I) year (each, a "Renewal Term"). In the event this Agreement expires but the parties continue to do business without any further written agreement, then this Agreement shall be deemed to have continued on a month-to-month basis on all the terms and conditions herein, to the extent applicable.

Accepted and agreed as of the day first set forth above by:

MPI Industries LLC	
Signature	Signature
Title	Title
Date	Date

Contractor Safety Prequalification Submittal

Company Information:

Company Name:_____ Date:_____

Years in Business:_____

Principle Name_____ Title:_____

Phone:_____

Operate under another name(s)_____

Address:_____

SIC:_____

Worker's Compensation:

Name of Carrier: _____

Contact Name: _____

_____

Experience Modification Rate for last three (3) years:

20___ - EMR_____
20___ - EMR_____
20___ - EMR_____

Injury History (last three years): __

	20____	20____	20____
# of Employees			
Recordable			
Lost Day Cases			
Rest. Duty / Xfer Cases			
Fatalities			

Regulatory History (OSHA, EPA, State/Local Regulatory Agencies):

Has company ever received a citation or notice of violation? If "yes," please describe._____

_____

Agency Date Violation (attach copy) Resolved? _____ _____ _____ _____

_____ _____ _____ _____

_____ _____ _____ _____

Work Practice Evaluation:

Does the company have a written safetymanual/program? _____

Does it cover (Mark "y" for yes, "n" for no, and a "t" for items in which regular training is provided):

Lockout/Tag out Hazard Communication_____Fall Protection _____

Excavations_____Personal Protective Equipment_____Hot Work _____

Scaffolds ____Tower Climber_____ Environmental _____

Does the companyhave an incident investigation procedure? _____
Does the company have a near---miss reporting requirement? _____
Does the company have a substance abuse policy? _____
Does the company require daily/weekly/monthly safety meetings?_____(circle one)
Does the company require worksite inspections?_____How often? _____

Primary Safety Contact:_____ Title: _____

Contact Number:_____ E---mail: _____
% of time spent on Work Site Safety: _____

Signature:_____
Title:_____
Print Name: _____

UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT

Upon receipt by the undersigned of payment from MPI Industries, LLC (the "Company") in the sum of $_____ payable to _____ (Contractor) and when this instrument has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release Company from any and all claims and causes of action for payment arising from all labor, services, equipment or material (the "Work") furnished by the undersigned and its contractors, subcontractors or agents for the job site _____(Site ID# and Name) (the "Job"), including the release of any mechanic's lien, construction lien, stop notice, or bond right the undersigned has on the Job.

The undersigned represents that it has paid all of its contractors, subcontractors or agents that have provided Work for the Job and agrees to indemnify, hold harmless and defend Company from any claims or causes of action brought by such contractors, subcontractors or agents for payment of such Work. The undersigned presents or has already presented Company with Waivers and Releases, in a form that is substantially similar to this document, signed by each contractor, subcontractor, and agent who performed such Work on the Job and represents that the signature on each Waiver and Release is valid.

Date:

Contractor: _____

By: _____

Title: _____

Notary: _____

Date: _____