

SUBCONTRACTOR AGREEMENT

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This Subcontractor Agreement (this "**Agreement**") is entered into as of [EFFECTIVE DATE] (the "**Effective Date**") by and between:

[CONTRACTOR LEGAL NAME], a [STATE] [ENTITY TYPE, e.g. limited liability company] with its principal place of business at [CONTRACTOR ADDRESS], holding license no. [LICENSE NUMBER] ("**Contractor**"); and

[SUBCONTRACTOR LEGAL NAME], a [STATE] [ENTITY TYPE] with its principal place of business at [SUBCONTRACTOR ADDRESS], holding license no. [LICENSE NUMBER] ("**Subcontractor**").

Contractor and Subcontractor are each a "**Party**" and together the "**Parties**."

Recitals. Contractor has entered into a prime contract (the "**Prime Contract**") with [OWNER NAME] (the "**Owner**") for the construction or improvement of the real property located at [PROJECT ADDRESS] (the "**Project**"). Contractor wishes to engage Subcontractor to perform a defined portion of that work, and Subcontractor wishes to perform it on the terms below. In consideration of the mutual promises below, the Parties agree as follows.

1. Scope of Subcontract Work

1.1 The Subcontract Work. Subcontractor will furnish all labor, materials, tools, equipment, and supervision necessary to perform the [TRADE, e.g. electrical / framing / plumbing] work described in **Exhibit A** (the "**Subcontract Work**") in a good and workmanlike manner.

1.2 Conformance. The Subcontract Work will conform to the plans, specifications, and applicable portions of the Prime Contract. On request, Contractor will provide Subcontractor the portions of the Prime Contract relevant to the Subcontract Work.

1.3 Standards and codes. Subcontractor will perform the Subcontract Work in compliance with all applicable building codes and laws in effect where the Project is located and will correct, at its expense, any nonconforming work caused by its act or omission.

1.4 Coordination. Subcontractor will coordinate its work with Contractor and with other trades, follow the Project schedule, and not unreasonably interfere with the work of others.

2. Flow-Down of Prime Contract Obligations

2.1 Incorporation by reference. The terms of the Prime Contract are incorporated into this Agreement to the extent they apply to the Subcontract Work. Subcontractor assumes toward Contractor all obligations and responsibilities that Contractor assumes toward Owner with respect to the Subcontract Work (the "**flow-down**" obligations).

2.2 Order of precedence. If the flow-down terms conflict with the express terms of this Agreement, [this Agreement / the Prime Contract] controls with respect to the relationship between Contractor and

Subcontractor, unless applicable law requires otherwise.

2.3 Rights reserved. With respect to the Subcontract Work, Contractor has the same rights and remedies against Subcontractor that Owner has against Contractor under the Prime Contract, in addition to the rights in this Agreement.

3. Subcontract Price and Payment

3.1 Subcontract price. Contractor will pay Subcontractor the total subcontract price of [AMOUNT] for the Subcontract Work, on a [FIXED-PRICE / UNIT-PRICE] basis, subject to change orders.

3.2 Progress payments. Subcontractor will submit payment applications [MONTHLY / ON MILESTONE COMPLETION] describing the Subcontract Work performed and materials supplied. Contractor will pay each approved, undisputed application, less retainage, within [NUMBER] days of receipt.

3.3 Pay-when-paid. Subcontractor acknowledges that Contractor's receipt of payment from Owner for the Subcontract Work is [a condition of / a timing factor for] Contractor's obligation to pay Subcontractor. The enforceability of pay-when-paid and pay-if-paid clauses varies by jurisdiction; this provision applies only to the extent permitted by applicable law.

3.4 Retainage. Contractor may retain [e.g. 10%] of each progress payment, to be released upon final completion and acceptance of the Subcontract Work and expiration of any applicable lien period, subject to limits under applicable law.

3.5 Final payment. Contractor will pay the final balance, including retainage, after (a) final completion and acceptance of the Subcontract Work, and (b) Subcontractor's delivery of final lien waivers under Section 7.

3.6 Late payment. Undisputed amounts not paid when due accrue interest at the lesser of [e.g. 1.5%] per month or the maximum rate permitted by applicable law.

4. Schedule and Performance

4.1 Schedule. Subcontractor will perform the Subcontract Work in accordance with the Project schedule and will prosecute the work diligently so as not to delay the Project.

4.2 Notice of delay. Subcontractor will promptly notify Contractor in writing of any condition likely to delay its work. The schedule will be equitably adjusted for delays beyond Subcontractor's reasonable control.

4.3 Acceleration. If Subcontractor falls behind through its own fault, Contractor may direct Subcontractor to take reasonable steps to recover the schedule at Subcontractor's expense.

5. Change Orders

5.1 Changes. A change to the Subcontract Work takes effect only when both Parties sign a written change order describing the change and its effect on the subcontract price and schedule.

5.2 No oral changes. Subcontractor is not obligated to perform, and Contractor is not obligated to pay for, extra work performed without a signed change order, except in a documented emergency to protect life or property.

5.3 Claims. Subcontractor will submit any claim for additional time or money in writing within [NUMBER] days of the event giving rise to it, with reasonable supporting documentation.

6. Insurance and Indemnification

6.1 Subcontractor insurance. Subcontractor will maintain, at its expense, commercial general liability insurance of at least [AMOUNT] per occurrence, automobile liability, and workers' compensation as required by applicable law, and will name Contractor and Owner as additional insureds where required by the Prime Contract. Subcontractor will provide certificates of insurance before starting work.

6.2 Indemnification. To the fullest extent permitted by applicable law, Subcontractor will defend, indemnify, and hold harmless Contractor and Owner from third-party claims for bodily injury, death, or property damage to the extent caused by the negligence or willful misconduct of Subcontractor or its lower-tier subcontractors in performing the Subcontract Work.

6.3 Limitation. Nothing in this Section requires Subcontractor to indemnify a party for that party's own negligence beyond what applicable law permits.

7. Liens, Waivers, and Safety

7.1 Lien waivers. With each payment application and at final payment, Subcontractor will provide, and will obtain from its lower-tier subcontractors and suppliers, lien waivers in a form reasonably acceptable to Contractor for the amounts paid.

7.2 Payment of lower tiers. Subcontractor will promptly pay its workers, lower-tier subcontractors, and suppliers and will keep the Project free of liens arising from its failure to pay parties it engaged.

7.3 Safety. Subcontractor is responsible for the safety of its own operations, will comply with the Project safety program and applicable occupational safety requirements, and will promptly report incidents to Contractor.

8. Warranty

8.1 Warranty. Subcontractor warrants that the Subcontract Work will be free from defects in materials and workmanship for [NUMBER, e.g. 12] months after final completion (or the period required by the Prime Contract, if longer), except for normal wear or misuse by others.

8.2 Remedy. During the warranty period, Subcontractor will, at its expense, correct defective Subcontract Work within a reasonable time after written notice. This warranty is in addition to warranties implied by applicable law that cannot be waived.

9. Default and Termination

9.1 Subcontractor default. If Subcontractor materially fails to perform and does not cure within [NUMBER, e.g. 3] days of written notice, Contractor may supplement or complete the Subcontract Work using others and offset reasonable completion costs against amounts otherwise due to Subcontractor.

9.2 Termination for convenience. Contractor may terminate this Agreement for convenience on [NUMBER] days' written notice, paying Subcontractor for Subcontract Work performed and materials properly ordered through the termination date.

9.3 Termination of Prime Contract. If the Prime Contract is terminated, Contractor may terminate this Agreement, and Subcontractor's recovery will be limited to amounts Contractor is entitled to receive from Owner for the Subcontract Work, plus amounts otherwise due for work performed.

10. General Provisions

10.1 Independent contractor. Subcontractor is an independent contractor. Nothing creates a partnership, joint venture, agency, or employment relationship.

10.2 **Governing law and venue.** This Agreement is governed by the laws of the State of [STATE], without regard to its conflict-of-laws rules, and the Parties submit to the exclusive jurisdiction of the courts located in [COUNTY, STATE].

10.3 **Assignment.** Subcontractor may not assign this Agreement or subcontract the Subcontract Work without Contractor's prior written consent.

10.4 **Notices.** Notices must be in writing and sent to the addresses above (or as updated in writing) and are effective on receipt.

10.5 **Dispute resolution.** Before filing suit, the Parties will attempt in good faith to resolve any dispute through direct discussion and, if unresolved, through [MEDIATION / ARBITRATION — discuss with counsel].

10.6 **Entire agreement; amendment.** This Agreement, together with its Exhibits and signed change orders, is the entire agreement between the Parties on its subject and supersedes prior discussions. It may be amended only by a writing signed by both Parties.

10.7 **Severability and waiver.** If any provision is unenforceable, the rest remains in effect. A Party's failure to enforce a provision is not a waiver.

10.8 **Counterparts and electronic signature.** This Agreement may be signed in counterparts and by electronic signature, each of which is an original and all of which together form one agreement.

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

CONTRACTOR

SUBCONTRACTOR

Signature: _____

Signature: _____

Printed name: [NAME]

Printed name: [NAME]

Title: [TITLE]

Title: [TITLE]

License no.: [LICENSE NUMBER]

License no.: [LICENSE NUMBER]

Date: _____

Date: _____

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