

Subcontract Agreement

(Contractor/Subcontractor)

Between Contractor/Owner:

And Subcontractor:

The Project entails the construction of: _____

This agreement is hereby made on: _____

Between the Contractor and the Subcontractor. By signing and returning this agreement, or by partial or complete performance under this agreement, you as the Subcontractor, agrees as follows:

1 - Scope of Work:

The project/work name shall be referenced to as: _____

Location(s): _____

2 - Complete Agreement:

The terms and obligations of this subcontract agreement are a complete and exclusive statement of the agreement between the Contractor and Subcontractor and supersedes any other document or understanding pertaining to the work referenced herein unless expressly consented to in writing by the Contractor. Upon acceptance, this agreement shall constitute a valid and binding contract which shall be governed, construed and subject to the laws of the State of New York.

3 - Duties to Owner:

The Subcontractor agrees to be bound to the Contractor by the terms of any contract for the project, where the work is located, between the Contractor and to assume toward the Contractor all the obligations and responsibilities that the General Contractor, by such contract, assumes toward the Owner. Provided that where any provision of the contract between the Owner and the General Contractor is inconsistent with any provisions of this agreement, this agreement shall govern.

4 - Labor and Materials:

The Subcontractor shall provide all equipment, materials, labor, tools, accessories, transportation and services necessary for the completion of the work as described in this agreement. The Subcontractor shall assume all risks and liability for damage or loss to all materials, equipment, tools or equipment incorporated in the work which belongs to him or are under his control.

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5 - Performance Standards:

The Subcontractor warrants that all work shall meet all requirements and specifications of this agreement, and shall be furnished by experienced personnel in accordance with the Subcontractor's best skill and attention and the highest professional standards and without delay to other tradesmen. In addition, all equipment, supplies and accessories furnished by the Subcontractor, in connection with this agreement, shall be of good quality and workmanship in strict compliance with the requirements of this agreement, and free from defects, latent or patent, in workmanship for a period of not less than one (1) year after the completion or acceptance of the work by the General Contractor without extra charge to the Contractor.

6 - Coordination among Trades:

The Subcontractor will cooperate with the Contractor and other Subcontractors in the scheduling and performance of work. The Subcontractor shall commence its work upon notification from the Contractor, and will proceed toward completion in accordance with the schedule established by the General Contractor. Should the Subcontractor fail to pursue or complete its work in accordance with the schedule established by the General Contractor, it hereby agrees to indemnify the Contractor for any and all costs incurred by the General Contractor as a result of Subcontractor's failure to perform. Time is of the essence in this agreement.

7 - Defects:

The Subcontractor will promptly notify the Contractor (before commencing the work) if there are any defects or deficiencies in the area where the Subcontractor will work. The Subcontractor agrees, without charge to the Contractor, to diligently commence within seventy-two (72) hours of the Contractor's written request, to repair or replace any and all failures of the Subcontractor in order to conform to the requirements of this agreement. If the Subcontractor does not diligently pursue such repair or replacement within the period specified, the Contractor shall have the right to remedy such failure, including without limitation, all reasonable costs, professional, administrative, managerial and attorney fees. The failure of a party to insist upon the strict performance of the terms and conditions hereof shall not constitute a waiver of that party's right to enforce the same in the event of a continuing or subsequent default on the part of the other party.

8 - Insurance:

The Subcontractor shall procure and shall maintain until final acceptance of the work, such insurance as will protect the Subcontractor, the Contractor, the General Contractor, the Owner, and their officers, directors, agents and employees, for claims arising out of or resulting from Subcontractor's work under this subcontract agreement, whether performed by the Subcontractor, or by anyone directly or indirectly employed by Subcontractor, or by

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anyone for whose acts the Subcontractor may be liable. Such insurance shall be provided by an insurance carrier rated "A-" or better by A.M. Best and lawfully authorized to do business in the jurisdiction where the work is being performed.

8.1

The Subcontractor's insurance shall include contractual liability coverage and additional insured coverage for the benefits of the Contractor, General Contractor, Owner and anyone else requested by the Owner, and shall specifically include coverage for completed operations. The insurance required to be carried by the Subcontractor shall be primary and non-contributory. With respect to each type of insurance specified hereunder, the Contractor's insurance shall be in excess to Subcontractor's insurance.

8.2

The Subcontractor warrants that the coverage provided under the Commercial general liability policy shall be written on an "occurrence" basis with coverage as broad as the insurance service office Inc.'s form and that no policy provisions shall restrict, reduce, limit or otherwise impair contractual liability coverage or the Owner, General Contractor or Contractor status as an additional insured.

8.3

Not less than five days prior to commencement of the work and until final acceptance of the work, the Subcontractor shall provide the Contractor with certificate(s) of insurance evidencing the required insurance coverage with the limits stated below or elsewhere in the subcontract documents. The Subcontractor shall provide the Contractor with thirty days written notice of a change or cancellation in coverage.

8.4

Unless otherwise stipulated in the subcontract agreement, the subcontractor shall maintain no less than the limits specified for each of the following insurance coverage's:

Commercial General Liability:	\$1,000,000 Each Occurrence
Contractual Liability:	\$2,000,000 Aggregate per Project
Workers' Compensation and Employers Liability:	\$1,000,000 Each Employee
Business Automobile, Including HNOA:	\$1,000,000 CSL per Accident
Umbrella Liability:	\$1,000,000

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NO EXCLUSIONS FOR CONTRACTUAL OR WORKER INJURY

The Owner, General Contractor, Contractor and their agents, officers, directors and employees are to be named as additional insureds on a primary, non-contributory basis to the Subcontractor's Comprehensive General Liability using appropriate ISO forms that include Premises Operations Liability, Contractual Liability, Advertising and Personal Injury Liability and Products/Completed Operations Liability, with Completed Operations Additional Insured status (CG2010 or CG2037) or by using a company specific endorsement that provides equivalent protection. The Owner, General Contractor, Contractor and their agents, officers, directors and employees shall be named as additional insureds under all Comprehensive General Liability policies of Subcontractors hired by the Contractor. Subcontractor shall provide waiver of subrogation for Owners, General Contractors, Contractors and their agents by endorsement to the GL policy.

9 - Progress Payments:

Based upon applications for payment submitted to the Contractor by the Subcontractor, corresponding to applications for payment submitted by the Contractor to the General Contractor/Architect, and certificates for payment issued by the General Contractor/Architect, the Contractor shall make progress payments on account of the Subcontract Sum to the Subcontractor as provided below and elsewhere in the Subcontract Documents.

9.1

Each application for payment shall be submitted in such form as may be required by Contractor, and shall be accompanied by: (a) Subcontractor's Waiver of Lien, General Release, Indemnification form and an AIA Application and Certificate for Payment form; (b) Vendors' Statement of Account letters; and (c) such other forms or information as may be required by Contractor, and to the extent that the more stringent provision will take precedent. The Subcontractor will take necessary steps to implement the system and insure that staff members are properly trained in the use of the program and its components.

9.2

Prior to submittal of Subcontractor's first application for payment to Contractor, a requisition breakdown is to be submitted for approval. The Schedule of Values should include line items for contract work, as well as for punch list and/or sign off documentation of said contract work. If Subcontractor requires any sign off by a Governmental Agency, Schedule of Values must reflect that sign off as a separate line item on the payment schedule.

The period covered by each application for payment shall be one calendar month ending on the last day of the month, or as follows:

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- Payment application due no later than _____ days before the last day of each month.
- Pencil requisition due on the _____ of the month.

Provided an application for payment is received by the Contractor not later than the..... day of a month, the Contractor shall include the Subcontractor's Work covered by that application in the next application for payment which the General Contractor is entitled to submit to the Architect. The Contractor shall pay the Subcontractor each progress payment within seven (7) business days after the Contractor receives payment from the General Contractor. If the Architect does not issue a certificate for payment or the Contractor does not receive payment for any cause which is not the fault of the Subcontractor, the Contractor shall pay the Subcontractor, on demand, a progress payment computed as provided in Paragraphs 9.7, 9.8 and 9.9.

9.3
If an application for payment is received by the Contractor after the application date fixed above, the Subcontractor's Work covered by it shall be included by the Contractor in the next application for payment submitted to the Architect.

9.4
The Contractor reserves the right to request written evidence from the Subcontractor that the Subcontractor has properly paid Vendors, and material and equipment suppliers.

9.5
It shall be a material breach of this Subcontract if Subcontractor shall fail to promptly pay when due all bills for labor and material performed and furnished by others in connection with the construction, furnishing and equipping of the building and improvements and the performance of the Work or shall fail to receive and hold all funds advanced to it from Contractor on account of the cost of the Work in trust for application to all such bills.

9.6
Subject to the provisions of the Subcontract Documents, the amount of each progress payment shall be computed as follows:

9.7
Upon the partial or entire disapproval by the Contractor of the Subcontractor's application for payment, the Contractor shall provide written notice to the Subcontractor. When the basis for the disapproval has been remedied, the Subcontractor shall be paid the amounts withheld.

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The Subcontractor shall assemble and deliver to the Contractor printed or typewritten operating, servicing, maintenance, cleaning, instructions and parts lists for all items of equipment provided as part of the Agreement. The Subcontractor shall provide the services of skilled supervisory personnel to arrange and conduct instructional classes in the orientation, operation, balancing and adjustment, testing and maintenance of all operating equipment and systems provided as part of the Agreement for the benefit of the Owner's personnel. Upon completion of the Work, the Subcontractor shall deliver all keys, including master keys and any special keys, key boxes and a copy of the keying schedule to the Contractor.

11 - Taxes:

The Subcontractor shall pay all Federal, State and Municipal payroll, excise and Sales taxes, and any and all other levies and taxes imposed in respect of any materials and services provided. The contract price includes all such taxes and all fees applicable to goods or services furnished by the Subcontractor and/or materials used in the production thereof.

12 - Compliance with Laws:

The Subcontractor agrees to (a) comply with all applicable federal, state, or local laws, ordinances, orders, regulations, and directives in any manner relating to goods and services supplied under this agreement, including but not limited to Magnuson Moss, Civil Rights, Equal Employment Opportunities, Non-Discrimination in Employment, Wages and Hours, Overtime Pay, Anti-Kickback, Withholding Taxes, Davis-Bacon, Buy American Acts, howsoever said laws, orders, and directives may be labeled or designated from time to time, (b) comply with all requirements regarding the maintenance, preservation, and inspection of records and reports pertaining thereto, and (c) require compliance with all the above by all suppliers and subcontractors with whom subcontractor may contract for anything relating to any portion of the Work.

13 - Permits:

The Subcontractor shall take all field measurements, furnish the required samples and drawings, and give authorities proper and timely notices where required. The Subcontractor shall comply with all governmental laws and decrees, and secure and pay for all necessary permits, licenses, inspections, tests and bonds required for the work.

14 - Termination:

The Contractor reserves the right to cancel, without cancellation or any other charge, all or any part of this agreement, if the Subcontractor fails to perform all or any part of this agreement. Such right of cancellation shall not be deemed a waiver of any other right reserved to the Contractor in this agreement, or by law for any delay or failure to deliver as

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specified. Further, the Contractor reserves the right to terminate this agreement without cause at any time prior to its completion by notifying subcontractor in writing of its intent to so terminate. Upon such termination, the Contractor shall pay the Subcontractor, in full satisfaction and discharge of all obligations owed to the Subcontractor for work performed under this agreement, all labor and expense incurred by the Subcontractor in fulfilling this agreement to the earlier of the date of receipt of such written notice, or three (3) days after contractor mails such notice. The parties agree that such amount shall also be deemed to fully compensate the Subcontractor for any damages resulting from the contractor's termination of this agreement, including without limitation-anticipated profits on work not yet performed. However, the Contractor shall have no obligation to pay for work that materially deviates from the terms of this agreement, in kind or quality.

15 - Safety Precautions and Procedures:

The Subcontractor shall take reasonable safety precautions with respect to performance of this Subcontract and shall comply with safety measures initiated by the Contractor as well as with applicable laws, ordinances, rules, regulations and orders of public authorities for the safety of persons and property in accordance with the requirements of the Prime Contract. The Subcontractor shall report to the Contractor within eight-hours (8) hours an injury to any person which occurred at the site. Subcontractor will insure that all employees (workers) will have proper OSHA Certification for the work that they are performing, including a minimum of OSHA 10 Certification. Subcontractor will ensure that all employees (workers) will submit to a Site Safety Orientation prior to allowing them to work on the Project. Subcontractor will ensure that all employees obey all site access and sign-in requirements.

If hazardous substances of a type of which an employer is required by law to notify its employees are being used on the site by the Subcontractor or anyone directly or indirectly employed by them, the Subcontractor shall, prior to harmful exposure of any employees on the site to such substance, give written notice of the chemical composition thereof to the Contractor in sufficient detail and time to permit compliance with such laws by the Contractor, other subcontractors and other employers on the site.

If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Subcontractor, the Subcontractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Contractor in writing. When the material or substance has been rendered harmless, the Subcontractor's Work in the affected area shall resume upon written agreement of the Contractor and Subcontractor. The Subcontract Time shall be extended appropriately and the Subcontract Sum shall be increased in the amount of the

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Subcontractor's reasonable additional costs of demobilization, delay and remobilization, which adjustments shall be accomplished as provided in this Agreement.

To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, the Contractor's Sub-subcontractors, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

16 - Cleaning up:

The Subcontractor shall guarantee all of the Work under the Subcontract Documents to be free from defective materials and improper workmanship. The Subcontractor guarantees that all materials it uses on or within the Project are fit for the particular purpose of the Project. The Subcontractor guarantees all such materials and workmanship against injury or damage resulting from proper and usual wear. The Subcontractor agrees to immediately replace or re-execute, without cost to the Contractor, General Contractor or the Owner, such Work as may be found to be defective and/or deficient so as to compensate for all damage caused to other Work or Materials due to such required replacement or re-execution, including professional and legal fees and costs.

All warranty period Work shall be executed and deficiencies remedied to the satisfaction of the Contractor, General Contractor and Owner even though the date of completion of the corrective Work may extend beyond the expiration date of the guarantee period. The Subcontractor shall not be responsible for correction of Work which has been damaged because of neglect or abuse by Contractor, General Contractor or Owner nor for the replacement of parts necessitated by normal wear in use.

17 - Indemnification:

To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Owner, General Contractor, Contractor, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Subcontractor's Work under this Subcontract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused

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by the negligent acts or omissions of the Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person.

In claims against any person or entity indemnified under this Subcontract by an employee of the Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Subcontract shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

18 - Arbitration:

All claims and disputes between the parties to this agreement arising out of or relating to this agreement, the project, the work the contract documents, or the breach thereof may, at the contractor's sole option, and only at the exercise of that option, be decided by arbitration in accordance with the Construction Industry Arbitration rules of the American Arbitration Association. The parties to the arbitration shall equally split the fees charged by the arbitrator. The decision of the arbitrator(s) shall be binding and final with respect to the parties, and may be entered as a judgment in any State or Federal court of competent jurisdiction. This arbitration agreement shall be deemed to be a self-executing arbitration agreement. Any disputes concerning the interpretation or the enforceability of this arbitration agreement, including without limitation, its revocability or void ability for any cause, the arbitration shall decide the scope of arbitrable issues, and defense based upon waiver, estoppels or laches.

19 - Assignment:

The Subcontractor shall not assign or transfer this agreement, or any part of this agreement, or any amount due and payable or to become due and payable hereunder without the written consent of Contractor, and any such assignment or transfer without such written consent shall be null and void. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs, administrators, executors and legal representatives, provided that nothing contained in this paragraph shall be construed so as to authorize the Subcontractor to make any assignment or transfer prohibited in this agreement.

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20 - Construction of Agreement:

In the event that any part of this agreement shall be declared void or unenforceable, such imperfection shall not affect the validity or enforceability of the remainder of this agreement. The clause headings appearing in this agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be construed to, define, limit or extend the scope or intent of this agreement. This agreement shall be construed in accordance with the laws of the State of New York, where the project is located.

Acknowledged by:

Contractor/Owner _____

Subcontractor _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____