



## SUBCONTRACTOR AGREEMENT

Certification Number \_\_\_\_\_

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between \_\_\_\_\_, a \_\_\_\_\_ (“Contractor”) and \_\_\_\_\_, a \_\_\_\_\_ (Subcontractor”).

A. Contractor has entered into a contract with an owner (“Owner”), as described on the attached description of the scope of work (the “Work”) attached hereto as **Exhibit “A”**. The plans and specifications related to the Work are herein incorporated as part of this Agreement.

B. Contractor wishes to subcontract to Subcontractor, and Subcontractor wishes to perform, certain aspects of the Work called for in the Owner’s contract hereinafter described as the “Subcontract Work”. The Subcontract Work is further described by reference to the scope of Subcontract Work attached hereto as **Exhibit “B”**

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the parties agree as follows:

1. **Contractor Duties.** Contractor agrees to pay the Subcontractor, for the full, complete and faithful performance of the Subcontract Work, for the price as designated and in the manner described herein (the “Subcontract Price”).

2. **Sucontractor Duties.**

Subcontractor agrees:

(a) To furnish all supervision, labor, materials, and equipment, and perform the Subcontract Work, in accordance with the terms of the Work. Upon request, Contractor shall provide to the Subcontractor a copy of the Contract with the Owner, but Contractor has the right to redact all pricing, allowance and monetary information from said Contract.

(b) That no portion of the Subcontract Work may be assigned or subcontracted without the prior written consent of Contractor;

(c) To begin the Subcontract Work within the number of days after notice by Contractor, as designated on the Subcontract Work. If at any time Subcontractor delays the

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Subcontractor’s Initials \_\_\_\_\_

commencement or progress of the Work under the Owner's Contract, for any reason, Contractor shall have the option to terminate this Agreement and the applicable Subcontract Work, if satisfactory arrangements are not made to cure the delay after three (3) days' notice by Contractor to Subcontractor; Contractor may also collect all reasonable damages caused by Subcontractor's delay.

(d) To cooperate fully with other subcontractors and to plan and conduct the Subcontract Work so as not to interfere with their operations. Contractor will not be responsible for any delays or interference resulting from the acts or operations of other subcontractors, suppliers, or other persons. Contractor will use all reasonable efforts to notify Subcontractor of any delays which occur, and Subcontractor will use all reasonable efforts to notify Contractor of same.

(e) Contractor may order extra Subcontract Work or make changes by altering, adding to, or deducting from the Subcontract Work, the Subcontract Price herein being adjusted accordingly. All such extra Subcontract Work shall be executed under the conditions herein except that any claim for extension of time caused thereby must be agreed upon at the time of ordering such change. Subcontractor shall make no claims for extra Subcontract Work unless the same shall be fully agreed upon in writing by Contractor prior to the performance of any such work;

All changes in or departures from the Work, as described in the Plans and Specifications applicable to the Subcontract Work shall be agreed upon in writing and reduced to a Change Order, which is a written instrument signed by Contractor and Subcontractor stating their agreement upon all of the following:

- i. a change in the Subcontract Work;
- ii. the amount of the adjustment, if any, in the Subcontract Price; and
- iii. the extent of the adjustment, if any, in the time for completion.

It is expressly understood and agreed by the parties that the Subcontract Work and Subcontract Price, and time for completion may only be changed by a written Change Order which shall set forth the cost or credit to Contractor, if any, of such changes to the Subcontract Price. Subcontractor shall not be obligated to perform any work, nor order any supplies or materials, pursuant to any Change Order prior to its execution by the parties to this Agreement.

(f) Subcontractor is deemed, for all purposes under this Agreement, an "independent contractor" and not an employee, agent or partner of Contractor. Subcontractor has no authority to bind, obligate, or contract on behalf of Contractor. Contractor shall in no way be liable as an employer of, or on account of any of the employees of, the Subcontractor. Subcontractor will, as an employer, to the extent of any of its employees, conform to all rules and regulations of Social Security Acts and Unemployment Commissions created by any laws, and that it will furnish satisfactory evidence to Contractor that it is conforming to said laws, rules and regulations. Subcontractor hereby releases and indemnifies Contractor from any and all liabilities under said laws, rules and regulations;

Contractor's Initials \_\_\_\_\_

Subcontractor's Initials \_\_\_\_\_

(g) To comply with all federal, state, and local laws, codes, ordinances, and regulations, and all municipal laws, codes, ordinances, and regulations, present or future, applicable to the Subcontract Work and to obtain at its own expense all licenses and permits necessary for the performance of the Subcontract Work;

(h) That if any federal, state, or local government or agency having proper jurisdiction shall direct Contractor to undertake or refrain from undertaking the Subcontractor Work or any portion thereof, and as a result thereof, the labor, materials, or equipment ordered for the Subcontract Work shall become unnecessary, Contractor may, without liability, cancel this Agreement in whole or in part by written notice to Subcontractor;

(i) To pay any and all federal, state and municipal taxes, including sales taxes, for which Subcontractor may be liable in connection with the labor, materials, or equipment used in carrying out this Agreement;

(j) That all materials delivered by or on account of Subcontractor and intended to be incorporated into the Subcontract Work shall become the property of Owner when delivered and paid for in full;

(k) At all times to timely perform and complete this Agreement to the full and complete satisfaction of Contractor. It is specifically understood and agreed that in the event that Subcontractor is not proceeding with diligence and in such a manner as to satisfactorily complete the Subcontractor Work within the required time, or in a manner not satisfactory to Contractor, then and in that event Contractor shall have the right, after reasonable notice, to take over the Subcontract Work and to complete the same at the cost and expense of Subcontractor, without prejudice to Contractor's other rights or remedies for any loss or damage sustained. Provided, however, Subcontractor shall not be liable for any delays caused by changes or acts of Owner, or persons employed by Owner, or Contractor, failure of any other subcontractor or materialman to timely perform, fires, strikes, acts of public authority, inclement weather, allocation of materials priorities, delays or defaults by public or private carriers, shortages of materials or labor, acts of God, or other work stoppages, casualties, civil insurrection or other causes beyond the control of Subcontractor.

(l) At the completion of the Subcontract Work, to clean up all refuse and rubbish caused by Subcontractor and to promptly removed all excess materials, tools, structures, and other items which may have been brought on the Owner's premises by Subcontractor, and in the event of the failure of Subcontractor to do so, Contractor may, after reasonable notice to Subcontractor, clean up such premises at the cost and expense of Subcontractor; and

(m) To guarantee the quality of all Subcontract Work and all labor, materials, and equipment used therein for one year from date of closing or the issuance of a final certificate of occupancy, whichever is later.

3. **Insurance.** Subcontractor shall carry, at its own expense, one or more policies of general public liability and property damage insurance, issued by one or more insurance companies authorized to do business in Kentucky, with the following minimum coverage:

Contractor's Initials \_\_\_\_\_

Subcontractor's Initials \_\_\_\_\_

(i) Worker's Compensation – minimum statutory amount; and

(ii) Comprehensive General Liability Insurance in an aggregate limit of not less than \$ \_\_\_\_\_, Products/Completed Operations in an aggregate limit of at least \$ \_\_\_\_\_, and a limit of no less than \$ \_\_\_\_\_ per occurrence. Subcontractor shall obtain an additional insured endorsement with the following wording: "Who is an insured is amended to include as an insured person or organization shown in the schedule, but only with respect to liability arising out of your work for that insured by or for you."

(iii) Such policy or policies shall name Contractor as an additional insured and shall provide that they may not be cancelled on less than \_\_\_\_\_ days notice to Contractor. Certificates of insurance as called for herein shall be furnished to Contractor prior to commencing any of the Subcontract Work.

(iv) Subcontractor shall indemnify and save harmless Contractor from and against any and all suits, claims, actions, losses, costs, penalties and damages, or whatsoever kind or nature, including attorneys' fees, arising out of, in connection with, or incident to Subcontractor's performance of this Agreement.

4. **Governing Law.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Kentucky.

5. **Entire Agreement.** This Agreement, and the exhibits describing the Work and Subcontract Work, together with any executed Change Orders, shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

6. **Dispute Resolution.** (Choose One Alternative)

(a) Any controversy or claim arising out of or relating to this Agreement shall be settled by binding arbitration submitted to a professional arbitration service under its rules relating to the construction industry and the Kentucky Arbitration Act. The arbitrator's decision shall be final and legally binding and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Each party shall be responsible for its share of the arbitration fees in accordance with the applicable rules of arbitration. The Arbitration proceeding shall occur in the state of Kentucky.

-OR-

(b) In the event of a dispute arising between the parties, all such litigation between the parties with respect to the subject matter hereof shall be proper only in \_\_\_\_\_ County (Kentucky) Circuit Court.

7. **Non Waiver.** The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of

Contractor's Initials \_\_\_\_\_

Subcontractor's Initials \_\_\_\_\_

any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions; but such terms and conditions shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

8. **Safety.** Contractor and Subcontractor agree to work together to provide a safe work environment. This includes, but is not limited to:

- Safe access to the premises
- Portable toilet facilities readily available
- Subcontractors to use safe practices as related to their trade

9. **Immigration Law Compliance.** Subcontractor shall employ only United States citizens and aliens who are authorized to work in the United States and shall not unlawfully discriminate on the basis of citizenship or national origin. Subcontractor acknowledges and agrees that in compliance with the Immigration Reform and Control Act of 1986, each new employee of Subcontractor, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility.

10. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective affiliates, successors and permitted assigns.

11. **Notices.** All notices, requests, demands, consents and other communications required or permitted under this Agreement shall be in writing and shall be either (1) hand delivered by messenger or courier service, (2) telecommunicated by fax or electronic mail; or (3) mailed by registered or certified mail (postage prepaid), return receipt requested, addressed to the appropriate party at its address set forth above or to such other address as that party may designate by notice complying with the terms of this Section. Each such notice is deemed delivered: (a) on the date delivered if by personal delivery; (b) on the date of transmission, with confirmed answer back if by facsimile or electronic mail; or (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities or courier service as not deliverable, as the case may be, if mailed or couriered. All notices and demands herein required shall be delivered to the addresses set forth below.

**CONTRACTOR**

**SUBCONTRACTOR**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fax:

Fax:

Email:

Email:

Contractor's Initials \_\_\_\_\_

Subcontractor's Initials \_\_\_\_\_

12. **Severability.** Each section, paragraph, term and provision of this Agreement, or any portion thereof, shall be considered severable and if, for any reason, any such portion of this Agreement is held by a court of competent jurisdiction to be unenforceable due to any applicable existing or future law or regulation, such portion shall not impair the operation of or have any effect upon, the remaining portions of this Agreement which will remain in full force and effect and bind the parties hereto, although the invalid portion shall be deemed not part of this Agreement from the time so directed by the court.

13. **Headings.** The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF Contractor and Subcontractor have executed this Agreement on the date indicated below.

CONTRACTOR:

SUBCONTRACTOR:

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Contractor's Initials \_\_\_\_\_

Subcontractor's Initials \_\_\_\_\_

**EXHIBIT "B"**

**SUBCONTRACT WORK**

THIS SUBCONTRACT WORK ATTACHMENT TO SUBCONTRACTOR AGREEMENT (the "Work Order"), is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ ("Contractor") and \_\_\_\_\_ ("Subcontractor").

1. Contractor has entered into a contract with \_\_\_\_\_ ("Owner") dated \_\_\_\_\_, 20\_\_\_\_, for work at the premises located at \_\_\_\_\_, \_\_\_\_\_ County, Kentucky (the "Owner's Contract").

2. Contractor agrees to pay to Subcontractor, for the full, complete, and faithful performance of the work described herein as part of the Owner's Contract, the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Subcontract Price") payable as follows: \_\_\_\_\_

3. Subcontractor agrees that the labor, materials, and equipment to be furnished, and the work to be performed by Subcontractor are as follows: \_\_\_\_\_

4. Subcontractor agrees to begin the Subcontract Work within \_\_\_\_\_ days after Contractor provides notice, either oral or written, to Subcontractor to begin the Subcontract Work.

5. Subcontractor shall complete the Subcontract Work by \_\_\_\_\_, 20\_\_\_\_.

6. The parties agree to the following special provisions: \_\_\_\_\_

Contractor's Initials \_\_\_\_\_

Subcontractor's Initials \_\_\_\_\_

IN WITNESS WHEREOF, Contractor and Subcontractor have executed this Addendum on the dates set forth below.

CONTRACTOR:

SUBCONTRACTOR:

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Contractor's Initials \_\_\_\_\_

Subcontractor's Initials \_\_\_\_\_