

CONSTRUCTION SUBCONTRACT AGREEMENT

This Subcontract Agreement ("Subcontract") is made on [date] between:

General Contractor: [company legal name], license no. [number], of [address] ("Contractor"), and

Subcontractor: [company legal name], license no. [number, if required], of [address] ("Subcontractor").

Project: [project name], at [site address] (the "Project").

Owner: [owner's legal name] ("Owner").

Prime contract: the contract between Owner and Contractor dated [date] (the "Prime Contract").

1. Scope of Work

Subcontractor will furnish all labor, materials and equipment needed for the following work (the "Work"): [describe the trade scope in detail, with drawing and spec references].

The Work includes: [list inclusions].

The Work does not include: [list exclusions].

2. Subcontract Documents

The Subcontract Documents are this Subcontract, the drawings and specifications listed in Exhibit A, and the Prime Contract terms listed in Exhibit B. If they conflict, the more specific requirement applies.

3. Flow-Down

For the Work, Subcontractor assumes toward Contractor the same obligations that Contractor assumes toward Owner under the Prime Contract, and Contractor has the same rights against Subcontractor that Owner has against Contractor. Contractor has given Subcontractor a copy of the Prime Contract terms in Exhibit B before signing (pricing may be redacted). Subcontractor is not bound by Prime Contract terms it was not given.

4. Schedule

Subcontractor will start the Work on [date or "within [number] days of Contractor's notice to proceed"], complete it by [date], and follow Contractor's updated project schedule. If Contractor, Owner or events beyond Subcontractor's control delay the Work, the completion date is extended by the time lost, if Subcontractor gives written notice within [number] days after the delay starts.

5. Subcontract Price

Contractor will pay Subcontractor:

- ☐ A lump sum of [\$ amount].
- ☐ Unit prices as listed in Exhibit C, estimated at [\$ amount].

The price includes Subcontractor's taxes, except: [exceptions].

6. Progress Payments and Retainage

Subcontractor will submit a payment application by the [day] of each month for Work completed and materials stored on site, in the format Contractor reasonably requests. Contractor may hold retainage of [percentage]% of each payment, reduced or released on the same basis Owner releases retainage to Contractor.

Timing of payment (choose one):

- ☐ **Pay-when-paid.** Contractor will pay Subcontractor within [number] days after Contractor receives payment from Owner for the Subcontractor's Work. If Owner does not pay for reasons not caused by Subcontractor, Contractor will still pay Subcontractor within a reasonable time, not later than [number] days after the payment application was approved.
- ☐ **Pay-if-paid.** Payment by Owner to Contractor for the Subcontractor's Work is a condition to Contractor's duty to pay Subcontractor for that Work. The parties understand this clause may be limited or unenforceable in some states.
- ☐ **Fixed timing.** Contractor will pay approved amounts within [number] days of receiving the payment application, regardless of when Owner pays.

Final payment, including retainage, is due within [number] days after the Work is accepted, the Section 13 close-out items are delivered, and (if pay-when-paid or pay-if-paid applies) Owner has paid Contractor.

7. Lien Waivers

With each payment application, Subcontractor will provide a conditional lien waiver for the amount requested, and after payment, an unconditional waiver for the amount received. With the final application, Subcontractor will provide a conditional final waiver, and after final payment, an unconditional final waiver. On reasonable request, Subcontractor will also provide waivers from its suppliers and lower tiers. If state law prescribes the form of waiver, the statutory form will be used.

8. Changes

Contractor may order changes to the Work. No change is binding, and no extra payment is owed, unless it is in a written change order signed by both parties that states the change in scope, price and time. In an emergency, Subcontractor may act without a change order to protect people or property and will be paid fairly for that work. If the parties can't agree on price, Subcontractor will proceed on Contractor's written direction and the price will be resolved under Section 15.

9. Insurance

Before starting the Work, Subcontractor will provide certificates showing at least:

- Commercial general liability: [\$ amount] per occurrence / [\$ amount] aggregate
- Commercial auto liability: [\$ amount]
- Workers' compensation as required by law, and employer's liability of [\$ amount]
- Umbrella or excess liability: [\$ amount or "not required"]

Contractor ☐ and Owner ☐ and [others] ☐ will be named as additional insured on the general liability policy for claims arising from the Work. Subcontractor will keep this insurance in force until the Work is complete, or longer if Exhibit B requires.

10. Indemnity

To the fullest extent allowed by law, Subcontractor will defend and indemnify Contractor and Owner against claims for bodily injury or property damage to the extent caused by the negligence or wrongful acts of Subcontractor, its lower-tier subcontractors, or anyone they employ. This section does not require Subcontractor to indemnify anyone for their own negligence.

11. Safety

Subcontractor is responsible for the safety of its employees and lower-tier subcontractors, and will comply with applicable OSHA standards, state safety laws, and Contractor's site safety plan and rules. Subcontractor will provide a competent person where the standards require one, report every injury and near miss to Contractor the same day, and stop any unsafe work. Contractor will coordinate site safety among the trades and share hazards it knows of. Neither party is relieved of its own legal duties.

12. Licenses, Permits and Law

Subcontractor will keep all licenses its trade requires where the Project is located, obtain the trade permits and inspections assigned to it in Exhibit A, and comply with all laws that apply to the Work.

13. Quality, Warranty and Close-Out

Subcontractor will perform the Work in a good and workmanlike manner. For [one year / the warranty period in the Prime Contract] after substantial completion of the Project, Subcontractor will correct defects in the Work at its own cost after written notice. Before final payment, Subcontractor will deliver the close-out items listed in Exhibit A (such as as-builts, manuals and warranties).

14. Cleanup

Subcontractor will remove its debris [daily / at the end of each phase]. If it fails to within [number] hours of written notice, Contractor may clean up and charge the reasonable cost.

15. Disputes

If good-faith talks don't resolve a dispute within [number] days, either party may ☐ file in the courts of [county, state] ☐ start mediation, then arbitration under [rules]. Disputes involving Owner follow the Prime Contract dispute process, and Contractor will pass Subcontractor's claims through to Owner where appropriate. Subcontractor will keep working during a dispute as long as undisputed amounts are paid.

16. Default and Termination

If Subcontractor fails to perform and does not start to cure within [number] days after written notice, then diligently finish, Contractor may supplement Subcontractor's forces or terminate, and charge Subcontractor the reasonable extra cost to finish the Work. If Contractor fails to pay undisputed amounts within [number] days after written notice, Subcontractor may stop work until paid. If Owner terminates the Prime Contract for convenience, Contractor may terminate this Subcontract, and Subcontractor will be paid for Work performed, materials delivered and reasonable demobilization costs.

17. General Terms

Independent contractor. Subcontractor is an independent contractor, controls the means and methods of its Work, and is responsible for its employees' wages, taxes and benefits.

Assignment. Subcontractor will not assign this Subcontract or sublet the whole Work without Contractor's written consent.

Notices. Notices must be in writing and delivered by hand, email with confirmation, or mail to the addresses above.

Entire agreement. This Subcontract and its exhibits are the entire agreement about the Work.

Amendments. Changes must be in writing and signed by both parties.

Governing law. The laws of the state where the Project is located govern this Subcontract.

Severability. If any part is found unenforceable, the rest stays in effect.

Counterparts and electronic signatures. The parties agree this agreement may be signed electronically and in counterparts, and an electronic signature has the same effect as a handwritten one.

Exhibits: A (scope, drawings and specs, permits, close-out list); B (Prime Contract flow-down terms); C (unit prices, if used).

Signatures

General Contractor

Signature: _____

Name: [full name]

Date: [date]

Subcontractor

Signature: _____

Name: [full name]

Date: [date]