

SUBCONTRACT ACKNOWLEDGMENT

Date: _____
From: (Subcontractor): _____
To: (Contractor): _____
Project Location: _____

Thank you for allowing us the opportunity to do business with your company. Enclosed is a signed copy of our Agreement with you. Our acceptance of this Agreement is conditioned on the following clarifications to its terms, whether contained in the Agreement itself, or as an additional document incorporated by reference or as a matter of law. It is also understood that this Acknowledgment and our attached proposal or description of our work are made a part of the Agreement and shall prevail over any contract document terms in conflict with our scope of work and that the terms included herein will be deemed accepted by you upon our commencement of the work. Our acceptance is conditioned on our having the same rights, remedies, and redress as you have by contract with the owner. We accept other terms included by reference only to the extent that such terms do not add to, conflict with, or otherwise change the provisions of the specifications, plans, our scope of work, or the terms of this Acknowledgment.

1. **Payment Terms** – Progress payments shall be due by the 20th day of each month and shall include the value of our work performed and materials stored on or off site through the end of the prior month. Retainage, if any, shall not exceed the percentage withheld by the owner for our portion of the project work. The full retainage amount shall be released to us upon substantial completion of our work, or a designated portion thereof, less the reasonable value of any work uncompleted by us. Payments to us shall be contingent on owner payments to you only to the extent of moneys the owner withholds for some deficiency on our part. All payments that you receive for our work shall be held in trust and used solely for our benefit. Any payment not made when due shall be subject to interest at the rate of 1% per month or the maximum permitted by law, whichever is less. We agree to provide lien waivers only with respect to work or material for which we have been paid in full. We do not agree to waive any lien or bond rights for unpaid charges.
2. **Indemnity** – Notwithstanding any other contract or insurance provision, we agree to indemnify you only for losses due to bodily injury or property damage (except for damage to the project work) to the extent caused by our negligent acts or omissions or the negligent acts or omissions of our employees, agents and subcontractors, during the performance of our work, but not to the extent caused by others. Each party shall defend itself in the event of a lawsuit or arbitration action.
3. **Insurance** – Our attached insurance certificate is being supplied conditioned on the understanding that it represents full compliance with all insurance requirements applying to us under the Agreement. In no event do we agree to waive any general liability or workers compensation subrogation rights or to name others as additional insureds except, if available and at your expense, to provide an Owner’s and Contractor’s Protective (OCP) liability policy. Either you or the owner shall maintain “All Risk” insurance on the full value of our work and material delivered to the project site, to an agreed off-site location and in transit and to pay all costs not covered because of any deductibles.
4. **Warranties** – Our sole warranty is to repair or replace any defective or non-conforming material or workmanship supplied by us, but it excludes normal wear and tear, abuse, misuse or neglect by others. The warranty period shall not extend for longer than one year from substantial completion of our work or a designated portion thereof, unless otherwise specifically agreed to by us in writing.

5. **Delays** – Notwithstanding anything to the contrary, neither party shall be liable to the other for any loss or delay due to any cause beyond its reasonable control, provided however that we shall be entitled to a commensurate extension in time to complete our work and for a reasonable payment should you direct us to undertake extraordinary measures, including working on an overtime basis, to expedite project completion. Under no circumstances shall either of us be liable for indirect, liquidated, or consequential damages. We do not waive our right to an equitable adjustment payment for any extra work performed pursuant to your instructions or due to acceleration, interference or other reasons beyond our control, including payment of reasonable sums for loss of productivity, if any.
6. **Contractor Obligations** – We shall be entitled to receive promptly upon request: (1) copy of your payment bond, if any, for the project, (2) copy of any owner supplied evidence of adequate project financing, (3) suitable storage areas for our material and equipment, and (4) timely furnishing of temporary project site facilities, services, and utilities at no cost to us, including a dumpster and project cleanup. Any additional expense resulting from off-site storage or relocation of storage facilities at your request shall be reimbursed to us. We agree to provide scheduling input for our work with the understanding that you will incorporate this information into the project-wide schedule.
7. **Termination** – If this Agreement is terminated through no fault of ours, we shall be paid for all demonstrated costs, including reasonable overhead and profit on uncompleted work. The Agreement may be terminated for our default provided that we are first allowed a reasonable time, following written notice, to commence and continue to cure a deficiency.
8. **Suspension** – If our work is suspended for reasons other than our default, we shall be entitled to a commensurate time extension and payment for our demonstrated added costs, including demobilization and remobilization, plus reasonable overhead and profit.
9. **Design Delegation** – Any design services provided by or through us shall be reviewed and approved by an authorized architect or engineer to confirm that the design portion furnished by us is acceptable. Our design and engineering submittals can be relied upon for accuracy and completeness only if we are supplied with all applicable design criteria.
10. **Safety** – We agree to abide by your safety policy to the extent it is not in conflict with our own safety policy. Each party shall comply with Occupational Health and Safety Act (OSHA) requirements, and each shall pay any fines and penalties imposed on it by OSHA. We shall not be liable for any safety barricades unless agreed to specifically by us.
11. **Backcharges** – Any claims for your services on our behalf shall be valid only if such services are approved in advance in writing by us or if we fail to correct a deficiency with reasonable promptness after written notice. In no event will a backcharge be valid unless billed no later than the 15th day of the month following performance of such services.
12. **Assignment** – Neither party shall assign the Agreement without the written consent of the other.
13. **Other** - (Space is provided below to insert additional subcontract clarifications, if any).

Subcontractor:

By _____
 Title _____

Disclaimer: This form does not contain legal advice. Individual circumstances vary widely, so readers may wish to consult their attorneys before acting on the premises described herein. Each subcontractor should decide the contract terms, which will protect the firm's interest. Subcontractors should not agree among themselves as to the form of the contract terms they will use; such agreements may violate antitrust laws and could result in the imposition of civil or criminal penalties.