

Agreement between contractor and subcontractor.

Agreement made _____ [date], between _____ of _____, called contractor, and _____ of _____, called subcontractor.

Subcontractor, in consideration of the agreements contained in this contract on the part of contractor, agrees with contractor as follows:

1. To furnish all material and perform all work for _____ [state work to be done and materials to be furnished, preferably by reference to numbers of drawings and pages of specifications].

2. To complete the work to be done on or before _____ [date], and in default of completion to pay to contractor _____ dollars (\$ _____) for each day that the work shall remain unfinished, as and for liquidated damages.

3. To furnish contractor, immediately on execution of this contract, with a satisfactory surety company's bond in the sum of _____ dollars (\$ _____), guaranteeing all terms of this contract and completion of the contract within the time mentioned.

4. To procure, at his [her] own expense, before entering performance of this contract, compensation insurance in a reliable insurance company, satisfactory to contractor, covering full liability for compensation to any of its employees for bodily injuries accidentally sustained, whether resulting in death or otherwise, under the Worker's Compensation Act of the State of _____, and to maintain such compensation insurance in full force and effect at all times while this contract shall remain in force and not fully performed on his [her] part; to furnish contractor a satisfactory indemnity accident policy protecting owner and contractor in case of accident to workers employed on the building or themselves or their employees or the public, and that if any suits are entered against owner of the building or the contractor on account of acts committed, or omissions by subcontractor, his [her] agents or employees, to defend such suits and reimburse either or both owner and contractor for any expense or cost that they may be put to, including court costs and attorney fees.

5. At his [her] own cost and expense, to apply for and obtain all necessary permits and conform strictly to the laws and ordinances in force in the locality where erected.

6. To provide, both in the shops and in the building, sufficient, safe and proper facilities, at all times, for inspection of the work by owner, architect and contractor, or the authorized representative of any of them, and, on request of contractor, to produce all vouchers showing the quality of the material used.

7. Should proper, workmanlike and accurate performance of any work under this contract depend in any way on proper, workmanlike or accurate performance of any work by another contractor on the building, to use all means necessary to discover any defects in the contractor's work, and to report the defects, in writing, to contractor before proceeding with his [her] work which is so dependent; and to allow to contractor a reasonable time to remedy the defects.

8. To make no claim for additional work unless done in pursuance of a written order from contractor, and notice of all such claims shall be given to contractor in writing before the next ensuing payment or shall be considered as abandoned.

9. Before final payment is made, to execute a written guaranty for his [her] work, agreeing to make good, without cost to owner or contractor, any and all defects due to imperfect workmanship or materials, which may appear during a reasonable time, the length of such time to be determined by contractor.

10. To protect and indemnify contractor against any loss or damage suffered by anyone arising through the negligence of subcontractor, or those employed by him [her] or his [her] agent or servants; to bear any expense which contractor may have by reason of the negligence, or on account of being charged with negligence; and if there are any injuries to persons or property unsettled, when the work is finished, final settlement between contractor and subcontractor shall be deferred until such claims are adjusted or suitable special indemnity acceptable to contractor is provided by subcontractor.

11. To indemnify and hold owner and contractor harmless from any and all loss or damage which owner and contractor, or either of them, may sustain on account of any claim, demand or suit made or brought against owner and/or contractor by or on behalf of any employee of subcontractor, or by or on behalf of any person injured by subcontractor, his [her] servants, agents or employees.

12. To not assign or transfer this contract or any part of this contract without written consent of contractor.

The contractor, in consideration of the agreements contained in this contract on the part of subcontractor, agrees as follows:

13. To employ subcontractor to provide the materials and to do the work according to terms and conditions contained in this contract.

14. If subcontractor shall faithfully fulfill this contract to the satisfaction of architect, and keep every agreement on his [her] part contained in this contract, to pay to subcontractor _____ dollars (\$ _____), for all of this work and material in place complete and accepted under this contract.

Payments to be made on or about the _____ day of each month at the rate of _____ percent of the value of the work erected in place during the preceding month, as determined by contractor or architect and the remaining _____ percent within _____ days after completion and acceptance of this work.

No payment made under this contract shall operate as an admission, on the part of contractor, that this contract, or any part of this contract, has been complied with, in case in fact it shall be otherwise, or so as to preclude any action for damages against subcontractor, should the work and material required not be performed and furnished in substantial and workmanlike manner, and of proper quality, or should this contract not be faithfully executed in every respect.

It is further agreed as follows:

15. No alterations shall be made in the work or materials shown or described by the drawings and specifications, except on written order of contractor, and when so made, the value of work and materials added or omitted shall be computed and determined by contractor, and the amount so determined shall be added to or deducted from the contract price. [Provision may be added as to arbitration in case valuation is in dispute.]

16. Contractor shall provide all labor and materials not included in this contract in such manner as not to delay the material progress of the work, and in the event of failure to do so, thereby causing loss to subcontractor, agrees to reimburse subcontractor for such loss; and subcontractor agrees that if he [she] shall delay the material progress of the work so as to work any damage for which contractor shall become liable, then he [she] shall make good to contractor any such damage over and above any damage for general delay otherwise provided for in this contract.

17. Should subcontractor at any time refuse or neglect to supply a sufficiency of properly skilled workers or of materials of proper quality and quantity, or fail in any respect to prosecute work with promptness and diligence, or fail in the performance of any of agreements on his [her] part contained in this contract, contractor shall be at liberty, after _____ days' written notice to subcontractor, to provide any such labor or materials, and to deduct the cost from any money due or to become due to subcontractor under this contract; and contractor shall also be at liberty to terminate the employment of subcontractor for the work, and to enter on the premises and take possession of all materials and appliances of every kind whatsoever on the premises, and to employ any other person or persons to finish the work, and to provide materials for the workers; and in case of discontinuance of employment of subcontractor, he [she] shall not be entitled to receive any further payment under this contract until the work shall be wholly finished, at which time, if the unpaid balance of the amount to be paid under this contract shall exceed the expenses incurred by contractor in finishing the work, the excess shall be paid by contractor to subcontractor, but if the expense shall exceed the unpaid balance, subcontractor shall pay the difference to contractor. The expense incurred by contractor as provided, either for furnishing materials or for finishing the work, and any damage incurred through such default, shall be audited and certified by architect whose certificate shall be conclusive on the parties.

18. No verbal order, objection, claim, or notice of either party to the other shall be of effect or binding, and no evidence of such order, objection, claim or notice shall ever be introduced in any suit in law or equity in which these parties are interested, both parties agreeing to execute and deliver in writing all communications from them by which the other party is to be charged, notified, or affected, and when they are given verbally they shall be held as not material or binding, and none of provisions of this contract, plans or specifications, shall be held to be waived, or interpreted, by reason of any act whatsoever, or in any manner, other than by an express waiver, or a definitely agreed interpretation in writing, and no evidence shall be introduced of any other waiver or interpretation.

19. *[Clause for extension of time in case subcontractor is delayed by acts of owner, architect or contractor, or by alterations required, or by damage occurring from fire, etc., may be included.]*

20. In case contractor and subcontractor fail to agree in relation to any matters under this contract, these matters shall be referred to a board of arbitration, consisting of one person selected by contractor and one person selected by subcontractor, these two to select a third person; the decision of any two of this board shall be final

and binding on the parties. The party cast in the decision shall pay the cost of the arbitration, but, in the event that each party is allowed something on his [her] claims, they shall share the expenses equally between them.

[Date and signature]