

## MASTER SUBCONTRACTOR AGREEMENT

THIS MASTER SUBCONTRACTOR AGREEMENT (hereinafter "Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between **Urbanbuilt, LLC**, a Maryland Limited Liability Company, (hereinafter "Contractor") and \_\_\_\_\_ whose address is \_\_\_\_\_; phone number is \_\_\_\_\_ and whose EIN or Taxpayer ID is \_\_\_\_\_, (hereinafter "Subcontractor").

### Recitals

**WHEREAS**, Contractor desires to establish and maintain an ongoing business relationship with Subcontractor whereupon the uniform terms and conditions of that relationship are set forth in this Agreement, but the Project and scope of such services may vary. Subcontractor desires to establish an ongoing business relationship with Contractor on the terms and conditions set forth herein. Upon execution of this Agreement, Contractor will, from time to time, issue to Subcontractor written authorizations to proceed with specific work, at a certain price and upon such other terms and conditions as may be set forth in a purchase order (hereinafter "Purchase Order").

**WHEREAS**, the parties intend for this Agreement to control the uniform terms and conditions of all work to be performed hereunder. It does not, however, create an exclusive dealings agreement and either party is free to terminate or modify its relationship with the other, including the terms of this Agreement, upon thirty (30) days notice, unless a shorter period for termination is afforded either party herein.

**WHEREAS**, upon execution of this Agreement, Contractor will issue to Subcontractor a written authorization to proceed along with one (1) or more exhibits, which though referenced herein, will be unique to each Project or assigned task.

In consideration of the mutual covenants and agreements contained in this Agreement, including, but not limited to, the specific material recitals set forth above, the Parties hereto contract as follows:

**Section 1. THE SUBCONTRACT DOCUMENTS.** The Subcontract Documents consist of:

- (1) this Agreement;
- (2) the Prime Contract between the Owner and Contractor as well as, and including, any and all other documents, drawings and specifications enumerated therein;
- (3) Extra Work Orders generated subsequent to the execution of the Agreement;
- (4) Purchase Orders as may be generated from time to time; and
- (5) Modifications to this subcontract issued after execution of this Agreement.

Any general or master contract or agreement between Contractor and Owner, or any other party, shall be binding upon Subcontractor to the extent such other agreements limit the right of Subcontractor to pursue remedies for breach, or are in conflict with the express terms

and provisions of this Agreement.

**Section 2. WORK OF THE PROJECT.** Subcontractor agrees to furnish all labor, materials, equipment and services necessary to complete the work itemized and described in the Purchase Order which will be provided by Contractor from time to time, but which is expressly incorporated as a part of this Agreement as if fully described herein. Any drawings, specifications, plans, modifications or addenda, provided to Subcontractor pertaining to the design of the Work shall be incorporated herein by reference.

**2.1. Right to Reject Non-Conforming Work.** Contractor, in its sole discretion, shall have the authority to reject Work of the Subcontractor which does not conform to the Prime Contract or this Agreement or is deemed to be deficient. In the event Contractor, or Owner, shall reject the work of Subcontractor as non-conforming or deficient, it shall promptly and fully perform such remedial work as may be required to bring the non-conforming or deficient work into compliance with the applicable standards, at its sole cost and expense (hereinafter "Remedial Work"). Failure of Subcontractor promptly commence, within forty eight (48) hours, and complete the Remedial Work shall constitute an event of default hereunder.

In the sole discretion of Contractor, upon the expiration of forty eight (48) hours after notice to perform Remedial Work is given, it may engage a replacement contractor to perform some or all of the Remedial Work and deduct from any amounts due and owing Subcontractor the actual cost, without profit or margin, of the replacement contractor.

**Section 3. INSURANCE.** To the fullest extent permitted by law, the Subcontractor agrees to indemnify and hold harmless the Owner, Architect (if any), Contractor and their respective officers, shareholders, insurers, agents and employees from and against any and all liability, loss or expense (including litigation costs and attorney's fees) under Worker's Compensation laws, as well as any other liability, incurred by any of them for injury or damage to persons (including death) or property (including loss of use thereof) or anyone including employees resulting from any act or omission of Subcontractor, its agents, employees or material suppliers. Prior to commencing work under this Agreement Subcontractor shall procure and maintain at its own expense, until completion and final acceptance of the Work provided for in this Agreement, insurance of the kind and in the amounts set forth below:

**3.1. WORKER'S COMPENSATION.** Subcontractor must supply both Worker's Compensation and Employer's Liability insurance in accordance with the laws of the State of Maryland as well as the jurisdiction in which the Project is situated. Employer's liability insurance minimum limits shall be as follows, unless otherwise modified:

- |                               |                                  |
|-------------------------------|----------------------------------|
| 1) Bodily Injury by Accident: | \$500,000 each accident          |
| 2) Bodily Injury by Disease:  | \$500,000 Disease, Policy Limits |
| 3) Employer's Liability:      | \$500,000 per occurrence         |

**3.2. GENERAL LIABILITY.** Subcontractor's minimum limits of General Liability shall be as follows, unless otherwise modified:

- |                                       |                       |
|---------------------------------------|-----------------------|
| 1) General Liability, Bodily Injury:  | \$1,000,000/1,000,000 |
| 2) General Liability, Property Damage | \$1,000,000/1,000,000 |

**3.3. AUTOMOBILE LIABILITY.** Subcontractor's minimum limits of Automobile Liability shall be as follows, unless otherwise modified:

- |                    |                   |
|--------------------|-------------------|
| 1) Bodily Injury:  | \$500,000/500,000 |
| 2) Property Damage | \$1,000,000       |

**3.4. PROOF OF INSURANCE.** Prior to the commencement of Work by Subcontractor it shall provide a Certificate of Insurance evidencing Subcontractor's full compliance with the insurance coverage and limits set forth above. Contractor shall be named as an additional insured and/or loss payee on a primary and non-contributory basis, upon request of Contractor, which can be made directly to Subcontractor's Insurer or agent. Before any cancellation or termination of any of the above Insurances, Subcontractor shall provide for thirty (30) days prior notice to Contractor, unless a longer advanced notice is required by Contractor by the Prime Contract.

**3.4.1. RIGHT TO DEDUCT.** In the event Subcontractor's worker's compensation insurance shall lapse, or it is otherwise unable to provide satisfactory evidence of coverage, Contractor is hereby authorized to deduct from any payment due and owing Subcontractor such sums as may be sufficient to compensate Contractor for any additional premium, or premium surcharge, which may be assessed by its provider of worker's compensation insurance upon any routine audit. In the event Subcontractor is no longer working for Contractor, or is not owed sums sufficient to compensate or reimburse Contractor for the within amounts, then in that event, Subcontractor agrees to pay such sums to Contractor, within ten (10) days following written demand for payment.

**3.5. MAINTENANCE OF RECORDS AND PROVISION OF CERTIFICATES UPON REQUEST.** Subcontractor agrees to maintain copies of proof of insurance for a period of at least two (2) years following the final day upon which work was performed on the Project. In the event Contractor is audited for purposes of establishing and verifying its Worker's Compensation Insurance premium, upon request made, Subcontractor, within three (3) business days following such request, shall provide to Contractor evidence of its worker's compensation coverage in place at the time the contracted for work was performed, as reasonably necessary to satisfy the inquire of the said insurer of Contractor. To the extent Subcontractor shall fail, or otherwise refuse, to provide such evidence and the Contractor's insurer assesses, retroactively or prospectively, an additional premium or surcharge, Subcontractor shall promptly remit payment to Contractor of the amount of the additional premium or surcharge plus all costs, including attorneys fees, incurred in connection with obtaining the reimbursement and/or information set forth in this subparagraph.

**3.6. WAIVER OF SUBROGATION.** Subcontractor, for itself and its insurer, hereby waives the right of subrogation against Contractor and Owner, as their interests

may appear.

**3.7. RISK OF LOSS.** Subcontractor bears all risk of loss and damage, arising from any event whatsoever, for Subcontractor's equipment, tools and materials. Property Insurance for the subcontractor's equipment, tools and materials which are required for the Subcontractor's Work, whether such items are stored on Owner's Site, off-site or in transit to Owner's Site, shall be the responsibility of Subcontractor, at Subcontractor's own cost and expense.

**Section 4. PERMITS, FEES, ETC.** Contractor agrees to obtain and pay for all federal, state and local permits, licenses and inspection fees and to pay all federal, state and local duties, levies and all other government charges attributable to the Work to be performed including material to be furnished under this Agreement, unless otherwise stated.

**Section 5. SUPERVISION OF WORK.** All the Work to be performed under this Agreement shall be performed under the exclusive direction and supervision of Subcontractor. Subcontractor shall cooperate with the Contractor in scheduling and performing the Subcontractor's Work to avoid conflict, delay in, or interference with, the Work of the Contractor, other subcontractors or Owner's own forces. Subject to Section six (6) herein, a representative, agent or employee of Contractor may alter or modify any requirements as to the Work to be performed under this Agreement. The Subcontractor's work is subject to the inspection and approval by Contractor or Owner.

**Section 6. TIME PERFORMANCE AND SCHEDULING.** Time is of the essence for performance of all of its obligations set forth in this Agreement. Subcontractor agrees to commence its Work and to complete its Work in accordance with the schedule established by the parties at the time of contracting, a copy of which may be set forth in Purchase Order which will be provided by Contractor to Subcontractor from time to time. Subcontractor agrees to supply and furnish at all times a sufficient number of skilled workmen, sufficient materials of the proper quality and quantity and proper equipment to perform the Work promptly and diligently in the sequence required by the entire project encompassed herein and to cooperate with other subcontractors in the orderly completion of the entire project.

**6.1.** The Subcontractor shall promptly submit Shop Drawings, Product Data, Samples and similar submittals required by the Subcontractor Documents with reasonable promptness and in such sequence as to cause no delay in the work or in the activities of the Contractor or other Subcontractors.

**6.2.** Unless a date of commence is established in the Purchase Order, the Subcontractor agrees to commence immediately the Work when notified to commence by Contractor at least ten (10) days prior to the date of commencement or as otherwise agreed upon at that time. Subcontractor shall have all necessary labor, equipment, materials and services available and be ready to commence the Work within ten (10) working days after being notified to commence work by the Contractor. When work commences, Subcontractor must stay on job in continuous days in order to properly complete job in a timely manner. If Subcontractor does not adhere to schedule and

continuous work then Contractor may impose delay damages as described below.

**6.3. Delay Damages.** The Contractor reserves the right to assess upon Subcontractor per diem delay damages, if its agreement with the Owner provides for such damages. Contractor may subtract, as a backcharge, delay damages from any payments due and owing Subcontractor hereunder. However, the amount of such assessment shall not exceed the amount assessed against Contractor. Desired damages, if any, shall be expressed in detail in the Purchase Order of this Contract.

*Or, in the Alternative, Contractor may elect to the following provision:*

*Liquidated damages shall be assessed against Subcontractor in the amount of (\$ 50) per day for each day that Subcontractor does not achieve completion of the Work hereunder. Subcontractor expressly agrees to be bound to the terms and conditions of the Prime Contract, with respect to this provision, as it relates to Subcontractor's scope of work, to the same end and extent that Contractor is bound to this provision. Contractor may withhold from payments due to Subcontractor such amount as will protect Contractor and Owner from Subcontractor's failure to perform under this provision.*

**Section 7. CHANGES IN WORK.** The parties, without invalidating this Agreement, may make any changes, alterations, additions and/or deletions in and to the Work of this Agreement. Should such alterations, additions and/or deletions be required or desired, Subcontractor agrees to promptly furnish Contractor with a statement of the description and cost of the change or extra work performed by Subcontractor. Changes and **Extra Work Orders (hereinafter "EWO")** are required to be in writing and signed by the parties to this Agreement or their agents.

**7.1. Unforeseen or Changing Conditions.** In the event Subcontractor encounters conditions which make the performance of its Work more time consuming, difficult or expensive, Contractor, upon verification of the existence of the said condition and agreement to pay additional compensation by Owner, agrees to compensate Subcontractor the costs related to the unforeseen condition. An Unforeseen Condition, includes, but is not limited to, site conditions which change after the commencement of work through no fault of Subcontractor; items, materials or conditions concealed below the surface (of water or land) which are not known, or visually apparent, to Subcontractor at or before it commenced work on the Project and/or changes in the nature of the site (due to weather or subsurface exploration) or type of work to be performed on the Project which make it so Subcontractor must utilize equipment, manpower or techniques different from those which were originally, and reasonably, intended to be used in connection with the performance of the Work.

**Section 8. STORAGE OF MATERIALS AND EQUIPMENT.** Contractor or Owner shall provide to Subcontractor a designated area to locate and store its equipment, supplies and materials for and during the course of the Work, unless otherwise stated. Subcontractor agrees that it is completely responsible for any loss or damage to its materials, tools or equipment located or stored on the site, in transit or in any facility provided for use by Contractor to

Subcontractor in furtherance of this subparagraph. In the event Contractor or Owner shall provide a storage area to Subcontractor, the provision of such is a mere accommodation to Subcontractor who hereby releases Contractor or Owner from any and all liability for loss or damage to persons or property occasioned by Subcontractor's use of the said accommodation.

**Section 9. PAYMENT AMOUNT AND TERMS.** As compensation for the Work to be performed by Subcontractor under this Agreement Contractor shall pay to it the sum set forth in the Purchase Order (hereinafter "Contract Amount").

**9.1. Terms of Payment:**

Payment of the Contract Amount shall be as follows:

- i) On or before the 3rd day (Wednesday) of each successive week in which Work is performed, Subcontractor shall complete and submit a requisition for payment on the form provided by Contractor or Owner. If no form of payment requisition is provided to Subcontractor it may submit an invoice or request for payment in the form used by it in the normal course of business. Upon request of Owner or Contractor, Subcontractor shall submit a detailed statement itemizing the work performed under this Agreement during the respective period since the last requisition for payment was made;
- ii) Upon completion of the Work, or at the request of Contractor, Subcontractor shall submit duly executed affidavits, certificates and/or waiver of liens [partial or final] applicable to all labor, materials and subcontractors mentioned or referred to in the requisition for payment;
- iii) In the sole discretion of Contractor, or if imposed upon Contractor by Owner, Contractor shall be permitted to retain or withhold a percentage, not to exceed ten (10%) percent of any requisitioned payment due and owing to Subcontractor until the completion and acceptance of all Work under this Agreement (hereinafter "Retainage") by Owner;
- iv) Contractor shall pay in full Subcontractor's properly submitted requisition for payment, less Retainage held or set offs permitted hereunder, within ten business (10) days of tender by Subcontractor, provided, however, that payment for the requisitioned work is timely made to Contractor by Owner or such other party responsible for payment. In the event Owner does not pay, or does not pay in full, Contractor for the Work set forth in the Subcontractor's requisition for payment, Contractor shall only be obligated to pay Subcontractor for the amounts received from Owner on account of Subcontractor's payment requisition.

**Section 10. LIABILITY FOR SAFETY VIOLATIONS.** Subcontractor shall be liable for, and indemnify Contractor and Owner from any against any liability for, any violation of any laws or regulations governing job safety in connection with the performance of its Work hereunder. All work must be performed following OSHA guidelines for safety and Contractor

has full right to impose penalties in monetary form to Subcontractors found in violation of said guidelines.

**Section 11. SEVERABILITY.** The Parties agree that, in the event any term, clause, or provision of this Agreement is found to be illegal, invalid or unenforceable for any reason, the remaining terms and conditions set forth in this Agreement shall be enforced and given effect to the extent permitted by law.

**Section 12. WARRANTY.** Subcontractor warrants to the Owner and Contractor:

- i) that all materials and equipment incorporated in the Work, under this Subcontract, will be of good quality and new unless otherwise required or permitted by the Subcontract Documents;
- ii) that the Work of this Subcontract will be free from defects; and
- iii) that the Work will conform to the requirements of the Subcontract Documents.

**12.1.** Subcontractor shall promptly remedy any of its work that is deemed defective or fails to conform to the Plans and Specifications, at its sole cost and expense. The Subcontractor shall be bound to the warranty included in the Prime Contract, as it relates to the Subcontractor's Work.

**Section 13. CLEANING UP.** The Subcontractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations performed under this Agreement. The Subcontractor shall not be held responsible for unclean conditions caused by other contractors or subcontractors.

**13.1.** If the Subcontractor fails to cleanup as provided in the Subcontract Documents, the Contractor may charge the Subcontractor, in the form of a set off against any amounts due and owing, the cost of cleaning the premises attributable to the work of the Subcontractor.

**Section 14. FAILURE OF PERFORMANCE OR TERMINATION OR ASSIGNMENT OF THE SUBCONTRACT.**

**14.1. FAILURE OF PERFORMANCE BY SUBCONTRACTOR.** If Subcontractor fails to perform or correct defective, deficient and/or non-conforming Work or fails to supply materials, labor or equipment in accordance with the terms of this Agreement, Contractor may order Subcontractor to stop work until the cause for such order has been eliminated. If the cause for such order shall not be immediately eliminated, Contractor may, without prejudice to any other rights which it may have, repair or remediate such conditions the cost of which shall be deducted from any payment then or thereafter due Subcontractor. If the payments then or thereafter due Subcontractor are not sufficient to cover such amount, Subcontractor shall pay the difference to Contractor.

Should the Subcontractor default or otherwise fail to carry out the Work in accordance with this Agreement, or fail to perform any provision of the Agreement, the Contractor may, and without prejudice to any rights or available remedies, terminate this Agreement and take whatever action it deems necessary to continue and/or correct Work and charge thereof to the Subcontractor, whom shall be liable for such costs, including reasonable overhead, profit and attorney's fees. In the event of such default, Subcontractor shall also be liable for all damages and costs of Contractor resulting from such default, regardless of any action taken or not taken by Contractor to terminate this Agreement entirely or in part. Further, Contractor shall have the unrestricted right to cancel and terminate this Agreement, without liability to Contractor, if at any time in the sole judgment of Contractor, Subcontractor's financial or other business condition is such as to endanger Subcontractor's performance hereunder.

**14.2. TERMINATION BY OWNER.** Should the Owner terminate the Prime Contract or any part which includes Subcontractor's Work, Contractor shall notify Subcontractor in writing within three (3) days of the termination notice from Owner and thereafter this Agreement, as to the respective Purchase Order, shall be terminated and Subcontractor shall immediately stop Work on the Project, follow all of Contractor's instructions, and mitigate all costs. In the event of Owner termination, the Contractor's liability to Subcontractor shall be limited to the extent of Contractor recovers on Subcontractor's behalf under the Prime Contract. Contractor agrees to cooperate with Subcontractor, at Subcontractor's expense, in the prosecution of any claim arising out of Owner termination.

**14.3. TERMINATION BY CONTRACTOR.** Contractor may at its option, or the option of the Owner, terminate, suspend or delay this Agreement in whole or in part by written notice to Subcontractor at any time. Upon such notice, Subcontractor shall immediately stop performing the Work, stop the placement of further orders or subcontracts outstanding hereunder, and take all necessary action to stop cost commitments and protect any property in Subcontractor's possession which Contractor has or may acquire an interest. If the parties, through negotiation, are unable to agree within six (6) months after date of termination, upon the amount of fair compensation to Subcontractor for such Work performed through the date of termination, Contractor's sole liability shall be to pay Subcontractor the actual costs incurred by Subcontractor which are properly applicable under recognized commercial accounting practices to the portion of this Agreement on which Work has been started but not completed and for which payment has yet to be received by Subcontractor. In any event, the total payments set forth above, together with payments made pursuant to this Agreement prior to termination shall not exceed the Contract Amount. In no event shall Contractor be liable for the loss of anticipated profits or any special or consequential damages arising from said termination. Subcontractor's remedies hereunder shall be subject to the remedies provided by Owner to Contractor, as contained in the terms and conditions of the Prime Contract.

**14.4. ASSIGNMENT.** Subcontractor may not assign its rights or obligations under this Agreement without the prior written approval of Contractor, which approval

Contractor may in its sole discretion be withhold, and any attempt to do so without such prior written approval shall be null and void and of no force or effect whatsoever. Contractor may freely assign its rights hereunder, including without limitation, to any lender of funds and Subcontractor shall consent to such assignment and shall execute any documents reasonably required in connection with such financing and assignment.

**Section 15. CLAIMS.** Subcontractor shall give Contractor written notice of all claims within seven (7) days of Subcontractor's knowledge of facts giving rise to the event for which claim is made; otherwise, such claims shall be deemed waived. All claims, disputes and other matters in question between Contractor and Subcontractor shall be resolved in the manor provided in this Agreement.

**Section 16. INDEMNIFICATION.** Subcontractor shall indemnify, defend and hold harmless the Owner and/or Contractor and their agents and employees from and against any and all demands, claims, suits, causes of action, damages, losses, penalties and/or expenses, including but not limited to court costs and attorneys' fees, arising out of or resulting from Subcontractor's performance of the Work required by this Agreement.

**Section 17. ADDITIONAL TERMS AND CONDITIONS.** This Agreement shall be binding upon the parties, their successors and assigns. It is expressly agreed between the parties hereto that this is the final integrated Agreement, saving and excepting any EWO(s), by and between them, and that no other agreements, express or implied, oral or written, limiting, qualifying or modifying the terms of this Agreement. Any subsequent modification or additions to this Agreement must be in writing and signed by the parties hereto and no oral representations prior or subsequent shall be binding upon the parties hereto, unless reduced to writing and signed by said parties.

**17.1 Authority to Bind.** Each party represents and warrants that this Agreement is valid and binding, is duly authorized by appropriate actions, and that the person signing below has authority to bind the respective party to this Agreement.

**17.2 Governing Law and Venue.** The terms and conditions of this Agreement shall be governed by and according to the laws of the State of Maryland, without regard to any statutes or interpretive rules addressing conflicts in laws between differing states. The parties further agree that the venue for any dispute relating to or arising from this Agreement shall lie within the appropriate court sitting in Baltimore County Maryland, unless such other venue shall be deemed more convenient by Contractor.

**17.3. Execution by Electronic Means.** This Agreement may be validly executed by electronic means, portable document files (PDF), facsimile transmittal, authorized signature stamp and in counterparts. Any such signature shall be treated as an original signature for all purposes.

IN WITNESS HEREOF, the parties have duly caused this Agreement to be executed the day and year first above written.

**THIS AGREEMENT SHALL NOT BE BINDING UPON CONTRACTOR UNLESS AND UNTIL THE SAME HAS BEEN ACCEPTED AND APPROVED IN WRITING BY AN OFFICER OF CONTRACTOR OR WORK HAS COMMENCED ON THE PROJECT.**

Contractor:

Subcontractor:

**Urbanbuilt, LLC**

\_\_\_\_\_, Company

By:

By:

(SEAL)

(SEAL)

\_\_\_\_\_, Authorized

\_\_\_\_\_, Authorized

Agent

Agent