

Addendum to Subcontract

(May be used for sample clauses and as a checklist)

Contractor: _____

Subcontractor: _____

Owner: _____

Project: _____

Date: _____

The undersigned Subcontractor accepts the terms of the proposed subcontract, SUBJECT TO the Contractor's agreement to the modifications set forth in this Addendum, as well as those changes incorporated within the subcontract by interlineation or deletion. In the event there is any conflict between the terms of this Addendum and the Subcontract, the terms of this Addendum shall control.

1. The Scope of Work shall include only the work set forth in the attached Subcontractor's proposal, and it is expressly incorporated and made a part of the Subcontract Documents between the Contractor and the Subcontractor.
2. Subcontractor shall have the benefit with respect to the Contractor of all the same rights, remedies and redress which the Contractor has with respect to the Owner.
3. Subcontractor's work shall be executed in substantial compliance with the Contract Documents in a good and workmanlike manner and free of defects not inherent in the type of work.
4. Subcontractor's obligations to examine documents, project site, and materials and work furnished by others is limited to the obligation to bring to the attention of the Contractor any defects or deficiencies that the Subcontractor actually observes during its site inspection. No testing beyond reasonable visual inspection shall be required.
5. Subcontractor is entitled to rely on the accuracy and completeness of the plans and specifications provided to the Subcontractor.
6. The Arizona Prompt Payment Law, A.R.S. Section 32-1129 through 32-1129.05, as amended, is incorporated by reference and applies to this Subcontract.

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7. Any design services provided by the Subcontractor or its Designer will be reviewed by the Project Architect or Engineer to assure that the design will be acceptable when integrated with the entire work. Contractor, Owner and Architect are entitled to rely on the accuracy and completeness of the designers hired by Subcontractor only if all design criteria are previously furnished to the Subcontractor by the Owner and Architect.

8. The project schedule and any modification shall allow sufficient time for Subcontractor to complete its Work in an efficient manner considering the contract completion date or times set forth in the Contract Documents. Subcontractor shall be entitled to an extension of time and an equitable adjustment in the price of the work, including but not limited to any increased costs of labor, including overtime, or materials, resulting from any change of schedule, acceleration, out of sequence work or delay caused by others for whom Subcontractor is not responsible.

9. Subcontractor's entitlement to adjustments in the subcontract time or price for changes in the work shall not be contingent upon nor limited to the amount that the Contractor receives from the Owner.

10. Contractor shall not withhold from Subcontractor as retainage a percentage that is higher than the percentage held by Owner on Subcontractor's Work.

11. No provision of the Subcontract shall serve to deny Subcontractor's entitlement to full payment each calendar month for properly performed work or suitably stored materials. Payments shall be due seven (7) days after payment is received or should have been received by Contractor from Owner.

12. Nothing in this Subcontract Agreement shall require the Subcontractor to continue performance if timely payments are not made to the Subcontractor for suitably performed work or materials.

13. Contractor will not require any contract close-out procedures or any forms which have not been provided to and specifically accepted by the Subcontractor prior to its signing of the Subcontract.

14. Subcontractor may take all steps reasonably necessary to preserve its lien and bond rights. Subcontractor and its suppliers are allowed to qualify any lien release form with all or part of the following language depending on the specific facts of payment: "This release shall apply only to work for which payment has been

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received in full by Subcontractor; shall not apply to retention; shall not apply to unbilled changes, to claims which have been asserted in writing or which have not yet become known to subcontractor; and shall be conditioned upon receipt of funds to Subcontractor's account."

15. Any indemnification, defense or hold harmless obligation of the Subcontractor shall extend only to that part or proportion of any claim, damage, loss or defect which results from the negligence or intentional act of the indemnitor or someone for whom it is responsible.

16. Notwithstanding any provision to the contrary, Subcontractor shall provide the types and limitations on insurance as shown on the attached certificate of insurance.

17. The Contractor shall, if the Owner does not, purchase and maintain all risk insurance upon the full value of the work performed and/or materials delivered to the jobsite which shall include the interest of the Subcontractor.

18. In the event of a suspension of work by the Owner or the Contractor, Contractor's liability to the Subcontractor is for payment in full for all Work performed to date of suspension and any additional cost incurred as a result of the suspension, including demobilization and remobilization, plus reasonable overhead and profit.

19. In the event of any termination by the Owner or by the Contractor which is not justified by a default of the Subcontractor, Subcontractor shall be entitled to payment from the Contractor for all costs incurred by the Subcontractor for which the Subcontractor has not received payment, including, but not limited to, reasonable overhead, profit, expenses and damages, including attorney's fees and interest, including profit on unperformed work.

20. The Contractor shall furnish all temporary site facilities including suitable storage space, hoisting, temporary electrical and water at no cost to the Subcontractor.

21. Contractor shall make no demand for liquidated damages or actual damages for delays in excess of the amount assessed against the Contractor and paid by the Contractor for unexcused delays actually caused by Subcontractor. Subcontractor shall not be subject to any consequential damages other than any contractually provided liquidated damages. The Contractor expressly waives all consequential damages.

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22. Work called for herein is to be performed during Subcontractor's normal working hours unless otherwise specifically agreed to in writing.

23. All claims, disputes, and matters arising out of or relating to this Subcontract or breach thereof not resolved by mediation shall be decided by binding arbitration in accordance with the Uniform Arbitration Act, Arizona Revised Statutes Sections 12-1501 through 12-1518 then in effect. The location of the arbitration will be in the County where the project is located and governed by the laws of the State of Arizona. Any decision of an arbitrator in such arbitration shall be final and binding. The prevailing party shall be entitled to recover its reasonable attorney fees, costs and expenses incurred.

24. The Contractor shall not be entitled to additional delay damages if liquidated damages apply to the subcontract.

25. No backcharge or claim of the Contractor for services shall be valid except by an agreement in writing by the Subcontractor before the work is executed, except in the case of the Subcontractor's failure to meet any requirement of the Subcontract. In such event, the Contractor shall notify the Subcontractor of such default, in writing, and allow the Subcontractor reasonable time to correct any deficiency before incurring any costs chargeable to the Subcontractor. No backcharge shall be valid unless billing is rendered no later than the 15th day of the month following the charge being incurred. Furthermore, any payments withheld under a claim of Subcontractor default shall be reasonably calculated to cover the anticipated liability and all remaining payment amounts not in dispute shall be promptly paid.

26. Subcontractor shall not be liable for erecting Project safety barriers unless expressly and specifically agreed to be part of the Subcontractor's work. Each party to the Agreement shall be liable for any safety violation fines or penalties imposed upon it, regardless of the cause of the fine or penalty.

27. Force Majeure applies to this Subcontract. In the event that there is an increase in material prices that are beyond the Subcontractor's control and are over __%, such increase shall be passed on and borne by the General Contractor. Further, any unusual delay in delivery by suppliers that could not reasonably be anticipated shall be cause for an equitable increase in the contract time. This contract is voidable by the Subcontractor if it cannot be performed due to causes that are

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outside the control of the Subcontractor and cannot be avoided by the exercise of due care.

Contractor

Subcontractor

By _____

By _____

Title _____

Title _____

Date: _____

Date: _____

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