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## FACSIMILE

TO: CLAUDE SIMON

FROM: TOBIN GUY LUSTGARTEN

CO: \_\_\_\_\_

DATE: 2/6/18

SUBJECT: CONTRACT AGREEMENT # OF PAGES: \_\_\_\_\_

CLAUDE - ENCLOSED PLEASE FIND THE  
SUBCONTRACT AGREEMENT WE DISCUSSED.  
YOU MAY HAVE TO CHANGE THIS SUIT YOUR  
NEEDS.

Sincerely  
Guy Lustgarten

# **STANDARD FORM OF AGREEMENT BETWEEN CONTRACTOR AND SUBCONTRACTOR**

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## **AGREEMENT**

Made as of the

Day of

In the year of

**BETWEEN** the Contractor:

And the Subcontractor:

The Owner/Contractor and the Subcontractor agree as set forth below:

### **ARTICLE 1.0 INDEMNIFICATION**

- 1.1 To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor and Owner, their agents and employee of either of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Subcontractor's Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, cause in whole or in part by negligent acts or omissions of the Subcontractor, the Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in the Paragraph 1.0.
- 1.2 In claims against any person or entity indemnified under this Paragraph 1.0 by an employee of the Subcontractor, the Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 1.0 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Subcontractor or the Subcontractor's Sub-subcontractors under Workers' or Workmen's Compensation Acts or other employee benefit acts.
- 1.3 The obligations of the Subcontractor under this Paragraph 1.0 shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawing, opinions, reports, surveys, Change Orders, designs, or specifications, or (2) the giving of or the failure to give directions or instruction by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.
- 1.4 Subcontractor waives all rights against Contractor, Owner and Architect and their agents, officers, directors and employees for recovery of damages to the extent that these damages are covered by Commercial General Liability Umbrella liability, business auto liability or workers compensation and employers liability maintained per insurance requirements stated above.

## ARTICLE 2.0 INSURANCE REQUIREMENTS

2.1 The Subcontractor shall purchase and maintain insurance of the following types of coverage and limits of liability:

Commercial General Liability - including Premises, Prod/Comp Ops; Contractual Liability	\$1,000,000 Each Occurrence \$2,000,000 Aggregate, PER PROJECT
Workers' Compensation and Employers Liability	\$1,000,000 Each Employee
Business Automobile, Including HNOA	\$1,000,000 CSL per Accident
Umbrella Liability	\$1,000,000, except exterior subs Must provide \$5,000,000 limits

If the Subcontractor purchases and maintains a CGL policy with a per-occurrence limit of more than \$1,000,000, this provision will automatically be deemed to require CGL coverage with a per-occurrence limit that is equal to the actual limit of the CGL policy purchased and maintained by the Contractor. If a per-occurrence limit of more than \$1,000,000 is provided under the CGL policy, this provision will also be deemed to require Excess/Umbrella Liability coverage with a per-occurrence limit of \$5,000,000 minus the amount of the per-occurrence limit of the CGL policy over \$1,000,000.

### NO EXCLUSIONS FOR CONTRACTUAL, OR WORKER INJURY ARE ACCEPTABLE

The Contractor, the owner and their agents are to be named as an additional insured on a primary and non-contributory basis to the Subcontractor's Comprehensive General Liability using appropriate ISO forms that include Premises Operations Liability, Contractual Liability, Advertising and Personal Injury Liability and Products/Completed Operations Liability. All contractors are required to provide Waiver of Subrogation by endorsement for General Liability coverage for the contractor and owner. CG2010 1185 or CG2037 will be required for Products/Completed Operations Additional Insured endorsements.

2.2 Coverages written on an occurrence basis shall be maintained without interruption from date of commencement of the Subcontractor's work until expiration of the applicable statute of limitations relating to latent defect in construction of or improvement to real property of the state in which the work is performed.

2.3 Certificates of Insurance acceptable to the Contractor shall be filed with the Contractor prior to commencement of the subcontractor's work. The certificates and insurance policies required by Article 2 shall contain the language shown on the sample certificate enclosed, and contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Contractor. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final application for payment as required. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Subcontractor with reasonable promptness according to the Subcontractor's information and belief.

2.4 Waivers of Subrogation. The Contractor and Subcontractor waive all rights against (1) each other and any of their Subcontractors, Sub-subcontractors, agents and employee, each of the other, and (2) the owner, the Architect, the Architect's consultants, separate contractors, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other perils to the extent covered by property insurance provided under the Contract or other property insurance applicable to the Work except such rights as they may have to proceeds of such insurance held by the Owner as fiduciary. The Subcontractor shall require of the Subcontractor's Sub-subcontractors, agents and employees, by appropriate agreements, written where legally required for validity, similar waivers in favor of other parties enumerated herein. If possible, the policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance

premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

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Contractor

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Subcontractor

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Signature and Title

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Signature and Title