

SUBCONTRACT AGREEMENT NO. _____ (SAMPLE)

DATE:

PROJECT NAME:
LOCATION:

CONTRACTOR: CTJ Construction Company, Inc.
ADDRESS: 4304 Lynburn Drive, Tucker, Georgia 30084

SUBCONTRACTOR:
ADDRESS:
TRADE:

OWNER:
ADDRESS:

ARCHITECT:
ADDRESS:

WITNESSED: That the contractor named above, and hereinafter called "Contractor", and Subcontractor named above, and hereinafter called "Subcontractor"; for the consideration hereinafter named, agree as follows:

1. SCOPE OF WORK Subcontractor has satisfied himself, by his own investigation and research, regarding all the conditions affecting the work to be done and materials to be furnished, and as to the meaning and intention of the Plans and Specifications, the General Conditions, and Addenda thereto, referred to herein, and in signing this Subcontract Agreement, Subcontractor agrees to be bound to Contractor and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward Owner with respect to the Contract documents and to the extent of Subcontractor's scope of work. All labor and materials must be to Plans and Specifications. Any change in the field, of type of labor and/or materials, must be approved by General Contractor, Architect, Engineer, and Local Building Official before Subcontractor is allowed to proceed with the change. Subcontractor agrees to provide at his own cost and expense all labor, materials, machinery, tools, scaffolding, hoisting facilities, and any other items necessary to timely and fully complete the following work in strict accordance with the Contract Documents.

2. CONTRACT DOCUMENTS The Contract Documents consist of the Drawings, Specifications and any other documents, all as enumerated below, and this Subcontract Agreement. In the event of a discrepancy between any of the other Contract Documents and this Subcontract, this Subcontract shall govern.

3. SUBCONTRACT AMOUNT In consideration of the faithful performance of the covenants and agreements herein, to the full satisfaction and acceptance of the Owner, Architect and Contractor, Contractor agrees to pay, or cause to be paid, Subcontractor the sum of

at the times and in the manner following in Articles 4 and 5.

4. PROGRESS PAYMENTS

- A. Prior to submitting his first monthly Payment Request, Subcontractor is required to submit, for Contractor's approval, a Pay Request Breakdown form listing the major elements of the Subcontract and the dollar value of each. This form shall be completed by Subcontractor each month to show proportional amount of each element completed to date and submitted to Contractor, attached to the Payment Request form.
- B. Subcontractor shall submit his monthly Payment Request in duplicate on the form provided, on or before the _____ day of each month. Invoices received after the _____ day of each month will be considered as the next succeeding month's business.
- C. Contractor shall retain 10 % of the gross amount of each monthly Payment Request. Retainage will be released to subcontractor in accordance with Article 5 of this agreement.
- D. Contractor shall make payment to Subcontractor within five (5) business days of Contractor's receipt of payment from Owner. The Subcontractor represents that it relies primarily for payment for work performed on the credit and ability to pay of the Owner, and not the Contractor, and the Subcontractor agrees that payment by the Owner to the Contractor for work performed by the Subcontractor shall be a condition precedent to any payment obligation of the Contractor to the Subcontractor.
- E. Monthly progress payments to Subcontractor shall in no way imply approval of Subcontractor's work.
- F. If upon request by Contractor, Subcontractor is unable to furnish Payment and Performance Bonds covering his work, Contractor may, at his option, make joint check payments to Subcontractor and his material suppliers and/or subcontractors.
- G. Any deviation to the above-mentioned payment schedule will require prior approval from the Construction Manager and the Owner's corporate office.

5. FINAL PAYMENT Contractor shall make final payment to Subcontractor after work is complete and accepted by Owner and Architect provided like payment shall have been made by Owner to Contractor, and further provided that Subcontractor shall have furnished Contractor with

satisfactory evidence that all labor and material accounts incurred by Subcontractor in connection with his work have been paid in full. Also, see Articles 6 and 22 of this Agreement for requirements relating to request for final payment.

6. APPROVAL AND PROGRESS DATA Subcontractor shall carefully examine specification requirements for approval material to be submitted such as shop drawings, product data, schedules, samples, etc. Then Subcontractor shall submit such materials at his own expense and in such form as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof. If "in place" or "as built" drawings are specified to be prepared by Subcontractor, these shall be prepared and submitted to Contractor before final payment is requested.

7. COMMENCEMENT AND COMPLETION OF WORK Time is of the essence of this Subcontract. Subcontractor agrees to supply materials, labor and equipment as necessary to commence his work when directed by Contractor. He shall diligently pursue the completion of his work, and coordinate his work with that being done on the project by Contractor and other trades so that his work or the work of others shall not be delayed or impaired by any act or omission of any act by Subcontractor. Contractor shall have complete control of the premises on which work is to be performed and shall have the right to decide the time or order in which the various portions of the work shall be installed or the priority of the work of other subcontractors, and in general, all matters representing the timely and orderly conduct of the work of Subcontractor on the premises. Contractor may prepare a coordinated Progress Schedule for the benefit of Contractor and all subcontractors, and if he does so, Subcontractor is required to perform his work in accordance with such Schedule or as it may be modified by Contractor as work progresses.

8. CHANGES IN THE WORK Should Contractor, at any time during the progress of his work, request any alterations or deviations in the Scope of Work in this Subcontract, he shall have the right and power to make such requests and Subcontractor shall within a reasonable time thereafter submit an itemized estimate of any cost changes he foresees to make the alterations or deviations. It is distinctly understood and agreed, regardless from whom orders may be taken for alterations or deviations in the Scope of Work, no alterations or deviations are to be made except by a Subcontractor Change Order issued by Contractor and then only when such order sets forth the amount of any addition deduction and is signed by both parties thereto. If Subcontractor initiates a substitution, deviation or change in the work, which affects the Scope of Work or causes expense to Contractor or other trades, Subcontractor shall be liable for the expenses thereof.

9. DEFECTIVE WORK AND CLAIMS Payments otherwise due may be withheld by Contractor on account of defective work not remedied, claims filed, reasonable evidence indicating probability of filing of claims, failure of Subcontractor to make payments properly to his subcontractors or for material or labor, or a reasonable doubt that the Subcontract can be completed for the balance then unpaid. If the said causes are not removed, on written notice, Contractor may rectify the same at Subcontractor's expense. Contractor may offset against any sums due Subcontractor hereunder the amount of any liquidated or unliquidated obligations of Subcontractor or Contractor, whether or not arising out of this Agreement.

10. LIENS Subcontractor shall save and keep the building or buildings referred to in this Subcontract and the lands upon which they are situated free from all mechanic's liens and all other liens by reason of his work or of any materials or other things used by him therein. If Subcontractor fails to remove any lien by bonding it, or otherwise, Contractor may retain sufficient funds out of any money due or thereafter to become due by Contractor to Subcontractor to pay the same, and all costs incurred by reason thereof, and may pay said lien or liens and costs out of any funds at any time in the hands of Contractor owing to Subcontractor.

11. INDEMNIFICATION AND INSURANCE

A. **Indemnification** Subcontractor agrees to assume the work at his own risk and agrees further to save harmless and defend Owner and/or Contractor from any and all claims, demands, judgments, cost of suit or defense, including attorney's fees and any expenses whether for personal injury or property damage, arising or alleged to have arisen, whether directly or indirectly, on account of or in connection with any work done by Subcontractor under this Subcontract or by any person, firm or corporation to whom any portion of the work is let or sublet by Subcontractor or resulting from the use by any of the above, of any materials, tools, scaffolding, ways, machinery or other property of Owner and/or Contractor.

B. **Certificate(s) of Insurance** The limits and general coverage required by the contract documents shall be on the Subcontractor's insurance carrier(s) standard form(s).

The subcontractor represents and agrees that such insurance is written for and shall be maintained in an amount not less than the limits of liability specified below or required by law, whichever coverage is greater

1)	Workers Compensation	\$ 500,000.00 –Each Accident \$ 500,000.00 –Each Employee \$ 500,000.00 –Policy Limit
2)	General Liability	\$ 2,000,000.00 –General Aggregate \$ 2,000,000.00 –Products & Completed Operations \$ 1,000,000.00 –Personal Injury \$ 1,000,000.00 –Each Occurrence
3)	Business Automobile	\$ 1,000,000.00 –Each Accident

C. **Accident Reports** Subcontractor shall submit to Contractor, within 3 days, copies of all accident reports arising out of any injuries to his employees or those of any firm or individual to whom he may have sublet work, or any property damage arising or alleged to have arisen on account of any work done by Subcontractor under this Subcontract.

D. **Builder's Risk Insurance** Subcontractor's materials and equipment which will become an integral part of the complicated project, either on the site or in the building are covered by a Builder's Risk and Extended Coverage insurance policy containing certain deductibles and exclusions taken out either by Contractor or Owner at no expense to Subcontractor. It is Subcontractor's responsibility to carry his own Risk Insurance against all losses not covered by said policy. A copy of said policy will be available for Subcontractor's inspection at Contractor's home office or project office.

12. COMPLIANCE WITH LAWS Subcontractor agrees to comply, at his own expense, with all laws and regulations applicable to the work covered by this Subcontract, including but not limited to the Occupational Safety and Health Act of 1970 (Public Law 91-596) as amended; Construction Safety Act (Public Law 91-54) as amended; and Subcontractor agrees to save and hold harmless Contractor from any and all liability and

damages, fines, costs and attorney's fees incurred by Contractor on account of Subcontractor's failure to comply with all laws and governmental regulations applicable to the work.

13. CLEANUP Subcontractor acknowledges that the execution of his work will result in an indeterminate amount of debris. Subcontractor agrees to retrieve, pick up and remove from the jobsite all such debris during the course of his work and on final completion of his work. Disposal of debris shall be done on a day-to-day basis as is reasonably determined necessary by Contractor. If after 24 hours' notice by Contractor's representative to Subcontractor's representative at the jobsite, Subcontractor has not diligently proceeded with the cleanup as outlined in this Article, then Contractor has the right to proceed with the cleanup work with his own labor, at Subcontractor's expense.

14. ASSIGNMENT AND SUBLETTING Subcontractor agrees that he will not assign, transfer, convey, sublet, or otherwise dispose of this Subcontract or any part thereof, or his right, title or interest therein, or his power to execute the same, without the consent in writing of Contractor. If Subcontractor does, with approval, sublet this Subcontract or any part thereof, he shall require that his subcontractor be bound to him and to assume toward him all of the obligations and responsibilities that he has assumed toward Contractor.

15. PERMITS All permits (except Contractor's main building permit), licenses and easements necessary for the prosecution of his work shall be procured and paid for by Subcontractor. Subcontractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the work as drawn and specified. If Subcontractor observes that Drawings and Specifications are at variance therewith, he shall promptly notify Contractor in writing. If Subcontractor knowingly performs any work contrary to such laws, ordinances, rules and regulations without such notice to Contractor, he shall bear all costs arising therefrom.

16. TAXES Subcontractor will pay social security and other taxes imposed upon him as an employer in connection with the performance of this Subcontract, and will furnish evidence, when required by Contractor, showing that all such payments required to be made have been paid. Subcontractor shall pay all local, state and federal taxes in connection with his work.

17. FAILURE TO PERFORM If Subcontractor at any time shall refuse or neglect to supply adequate and competent supervision, or a sufficiency of properly skilled workmen or of materials of the proper quality or quantity, or fails in any respect to prosecute the work with reasonable promptness and diligence, or fails in the performance of any agreement on his part herein contained, Contractor shall have the option, after 48 hours' written notice to Subcontractor, to provide any such labor or materials and to deduct the cost thereof from any money due or thereafter to become due by Contractor to Subcontractor. Contractor shall also be at liberty to terminate the employment of Subcontractor on said work and to enter upon the premises and take possession of all materials or appliances, of any kind whatsoever, thereon and to employ any other person or persons to finish the work and to provide the material therefore, and in the case of such discontinuance of the employment of Subcontractor, he shall not be entitled to receive any payment under the Subcontract which might otherwise be due to him, until the said work shall be finished and payment in full therefor shall be made by Owner to Contractor, at which time, if the unpaid balance of the amount to be paid under this Subcontract shall exceed the expenses incurred by Contractor in finishing Subcontractor's work, including attorneys' fees pursuant to Article 29, such excess shall be paid by Contractor to Subcontractor, but if such expense shall exceed such unpaid balance, Subcontractor shall pay the difference to Contractor within 10 days after demand therefor.

18. PROTECTION OF WORK Subcontractor shall take every reasonable precaution to protect his work or material from loss or damage. If Subcontractor or his employees are responsible for any loss or damage to the work or material of Contractor, Owner, Owner's separate contractors, or any other subcontractor, he shall be charged with same, and any monies necessary to replace such loss or damage shall be deducted from monies due Subcontractor hereunder.

19. LAYOUT RESPONSIBILITY Contractor shall establish principal axis lines and levels whereupon Subcontractor shall lay out and shall be strictly responsible for the accuracy of his work and for any loss or damage to other contractors engaged in work on the site by reason of failure of Subcontractor to set out or perform his work correctly. Subcontractor shall exercise prudence so that actual final conditions and details shall result in perfect alignment of finish surfaces.

20. PATENTS Subcontractor agrees to forever save Owner and/or Contractor harmless because of any claims, demands, or damages of any nature on account of the use of any patented invention, article or process in connection with the work under this Subcontract, either in the course of construction or after completion of the work, and Subcontractor further agrees to defend at his own expense, any suits or infringements.

21. ARBITRATION It is hereby agreed that should any dispute arise respecting the true meaning of the Drawings, Specifications, extra work or time allowance, the same shall be decided by Architect, and if his decision is not satisfactory to both parties, they shall, if so directed by Architect, nevertheless conform thereto and a final and binding decision shall be obtained by arbitration. Such arbitration shall be had by three disinterested parties, one of which shall be selected by Subcontractor and one by Contractor, and the third shall be selected by the two arbitrators so chosen, and the decision of a majority of said arbitrators shall be binding, final and conclusive upon the parties hereto, and no action shall be brought upon this Subcontract with respect to such price or the length of such extension of time, etc., in any court until the award of such arbitrators is duly made. The expense of such arbitration shall be borne equally by both parties hereto.

22. GUARANTEE Subcontractor shall, before requesting final payment, provide Guarantee required by the Specifications. In the absence of any specific Guarantee required by the Specifications, Subcontractor, in signing this Subcontract, agrees at his own expense to replace or repair any faulty or defective material or workmanship within one year from the day of Notice of Completion of the project, or Owner's beneficial occupancy, whichever occurs first. In addition, Subcontractor shall be responsible for and pay for replacement or repair of adjacent materials or work, which may be damaged due to the failure of Subcontractor's material or work and/or damaged as a result of the replacement or repairs thereof. Subcontractor shall complete warranty work in a reasonable length of time after notified by the Contractor, otherwise Contractor will perform Subcontractor's work and will bill the Subcontractor for expenses incurred.

23. EQUAL EMPLOYMENT Subcontractor agrees to abide by and comply with all procedures, rules and regulations with regard to nondiscrimination issued by Equal Employment Opportunity Commission or Executive Order, insofar as they may apply to the work covered by this Subcontract.

24. ARCHITECT AND/OR OWNER APPROVAL This Subcontract and Subcontractor are subject to approval by Architect and/or Owner. Notification to Subcontractor of such approval shall not be unreasonably withheld.

25. **TERMS OF CONTRACT** Each of the parties hereto agrees and represents that this Subcontract comprises the full and entire agreement between parties affecting the work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by this Subcontract. Subcontractor shall not make any alterations, additions to or deletions from the content of this Subcontract before signing and returning it, but if he takes exceptions to any of the content of this Subcontract, he shall promptly notify Contractor, in writing, so that differences can be resolved in legal form by Contractor and be changed by an amendment to be signed and dated by all parties to this Subcontract.

26. **USE OF CONTRACTOR S EQUIPMENT** In the event Subcontractor shall use Contractor 's equipment or facilities, he shall reimburse Contractor at a predetermined rate, unless otherwise stated herein. Further, that in so doing, Subcontractor assumes all responsibility for, and shall hold Contractor harmless from any claims, actions, damages, liabilities or expenses, including attorneys ' fees, resulting from the use of such equipment or facilities by Subcontractor or his agents, employees or permittees.

27. **QUALITY OF WORKMEN** Subcontractor shall provide supervision and workmen of a quality commensurate with the usual requirements for the type of work being done. If, in the opinion of Contractor, Subcontractor 's supervision and workmen are not of satisfactory quality, he shall so notify Subcontractor, and Subcontractor shall, within 48 hours, initiate the necessary steps to remove unqualified personnel, and replace them with men of qualifications acceptable to Contractor.

28. **JURISDICTIONAL DISPUTES AND LABOR PROBLEMS** Subcontractor shall supply only labor and/or materials, which will not cause labor disputes in the overall performance of Contractor 's work. In the event Subcontractor 's workmen are involved in a jurisdictional dispute with other crafts on the project, or such workmen refuse to man the project due to any other type of labor disputes or a picket line for any reason, Subcontractor agrees to take immediate steps to resolve such disputes; and, if same are not immediately resolved, Contractor may, at his option, invoke the provisions of Article 17 of this Subcontract Agreement.

29. **ATTORNEYS 'FEES** In the event Subcontractor defaults in the performance of any of the terms, covenants, agreements or conditions contained in this Subcontract and Contractor places in the hands of attorneys the enforcement of all or any part of this Subcontract, then Subcontractor agrees to pay Contractor reasonable attorneys ' fees for the service of such attorney, whether suit is actually filed or not.

30. **COMPLETED OPERATIONS INSURANCE** Subcontractor agrees to carry completed operations coverage for his work for twelve months after acceptance by contractor.

31. **MISCELLANEOUS PROVISIONS** The following miscellaneous provisions are included in this Subcontract Agreement:

A. Insurance certificate to carry the following additional insureds: **CTJ Construction Company, Inc.**

IN WITNESS HEREOF, the parties have executed this Subcontract Agreement on the date herein first above written.

CTJ CONSTRUCTION COMPANY, INC.

Attest: _____

By: _____

Title: _____

(Subcontractor)

Attest: _____

By: _____

(Authorized Signature)

Title: _____