

McGuyver Painting

Subcontractor Packet



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Subcontractor Policies and Procedures

Introduction

People who choose McGuyver Painting Specialists have very high expectations during the painting process; they expect the best from us, and we want to deliver the very best to them. That is why we have chosen you and your company to represent McGuyver Painting Specialists to our clients; we feel that you are capable of delivering this service in addition to a high level of quality work.

This packet is intended to familiarize you with our company and the policies and procedures while on a McGuyver Painting jobsite.

Jobsite Etiquette

While on a McGuyver jobsite, there are a few things to keep in mind. First, in most cases, you will be working on someone's home, this means keeping care of their possessions (furniture, plants, hoses, lawn, etc.). In addition, the way you present yourself at their home is important. Please do not smoke on the premises, keep language and stories clean, do not wear offensive clothing and keeping radios to a reasonable level and with reasonable content. Finally, keeping the jobsite clean is very important; cleaning every night and maintaining a reasonably clean site during the day. Because our customers vary, it is important to treat them all like they care about all of the details.

Daily Walk-Arounds

Another service we offer our customers is to do a walk-around with a crew member everyday. This creates a comfort level with our customers; they feel that the crew isn't doing anything wrong when they see their work every day. It also keeps the customer in tune with the exciting process that is happening to the outside of their home. Doing a walk-around also helps to insure that no problem goes unresolved.

When doing a walk-around, it is important to show the customer the steps you have taken on their home. Point out the prep work you have done, show them areas you have painted and point out areas that you haven't worked on yet so that they know you are on top of the job. If they think you are missing things, even though you know you will get to it, they become concerned. By pointing these things out during a walk-around, the customer will understand and not worry about these little things, and ultimately, have more trust in you to do a complete and quality paint job.

Signage/Leads

One condition of working on a McGuyver jobsite is that we ask that there be no signage other than McGuyver Painting Specialists on the site, vehicles, and on clothing. Please remove or cover any signage from your company.

In addition, neighbors will occasionally inquire about getting a bid on their property. These leads must be turned into McGuyver. We will take care of the bid, book the job, help them choose colors, and power wash the house. We will offer the subcontractor first choice on the job if and when it books.

What We Need From You

Liability insurance

We must receive a copy of your Liability Insurance from your Producer (Agent or Insurance Company) with the McGuyver Painting Licensee listed as “Certificate Holder.” Confirm with your McGuyver representative/licensee what address to have listed.

Worker’s compensation

McGuyver must receive a copy of your Worker’s Compensation Insurance from your Producer (Agent or Insurance Company) with the McGuyver Painting Licensee listed as “Certificate Holder.” Confirm with your McGuyver representative what address to have listed.

Independent Contractor Form

* If you are an Independent Contractor and do not have employees, we **do not** need proof of Worker’s Compensation as you are not required to have a policy. However, we do need to have a **notarized** Independent Contractor Form. Be sure to fill this out in full, including initialing by all of the “IC” on the list on page 2.

McGuyver Painting Subcontractor Agreement Form

The Subcontractor Agreement Form is your agreement to the McGuyver Painting Licensee to adhere to our policies and procedures. This form needs to be completed once by subcontractor. For each job you will receive a work order with specific job details; each work order will refer to the Subcontractor Agreement Form.

W-9

The McGuyver licensee must have a completed W-9 form. These are available online, at local tax offices and may also be provided to you by McGuyver.

Once we have received all of these forms, we will be able to start sending work your way. We are excited to begin working with your company!

Subcontractor Agreement

CONTRACTOR (Licensee): _____
Business Name: _____
Street Address: _____
City, State, Zip Code: _____

SUBCONTRACTOR : _____
Business Name: _____
Street Address: _____
City, State, Zip Code: _____

WORK/PROJECT: See Work Order(s)

THE OWNER FOR THIS PROJECT IS: See Work Order(s)

SUBCONTRACT PRICE: See Work Order(s)

BILLING DATES: Bi-weekly. Invoice must be received 1 week prior to payment date. Send invoice referencing work order number, job name and manager name to ContractorOffice at above address.

RETAINED PERCENTAGE: N/A

CHANGE ORDER OVERHEAD AND PROFIT: Must have prior approval (Please see schedule G for an example of how to address any potential change order work.)

PAYMENT AND PERFORMANCE BONDS: Required _____ Not Required

(The above terms are incorporated by reference and are more fully explained below.)

Contractor, and Subcontractor, with offices at the addresses shown above, agrees for themselves, their successors and assigns as follows:

1. **Work.** Subcontractor shall perform and furnish all labor, supervision, services, materials, equipment, tools, scaffolds, transportation, storage and all other things necessary to prosecute and complete the work identified and described in Schedule A attached hereto (the "Work"), being a portion of the Work required of Contractor under the Contract between Owner and Contractor. Subcontractor shall perform the Work in a good portion of the Work required of Contractor under the Contract between Owner and Contractor. The Work shall be performed by Subcontractor in a good and workmanlike manner strictly in accordance with the Contract Documents, consisting of the Contract and the plans, specifications (including, but not limited to, general, special and supplement conditions), attached schedules, addenda and other documents identified in Schedule B attached hereto, and all subsequently and duly issued modifications thereto.

The Contract Documents are available for examination by Subcontractor at all reasonable times at the office of Contractor. Subcontractor represents and agrees that it has carefully examined and understands the Contract Documents relevant to the Work, has adequately investigated the nature and conditions of the Projects site and locality; has familiarized itself with conditions affecting the difficulty of the Work; and he has entered into this Subcontract based on its own examination, investigation and evaluation and not in reliance upon any opinions or representations of Contractor.

With respect to the Work, Subcontractor agrees to be bound to Contractor by the terms and conditions of the Contract Documents and this Subcontract and hereby assumes toward Contractor all of the duties, obligations and responsibilities that Contractor has by the Contract Documents assumed toward the Owner.

2. **Price.** Contractor shall pay to Subcontractor for the satisfactory performance and completion of the Work and all the duties, obligations and responsibilities of Subcontractor under this Subcontract, the sum set forth above as the Price, subject to additions and deductions as herein provided. To the extent that the Work is to be performed on a unit basis, the Price shall be computed in accordance with the unit prices set forth in Schedule C, based on actual quantities determined in accordance with the Contract Documents and this Subcontract. The Price and all unit prices shown in Schedule C, shall be deemed to include all costs of Subcontractor's performance of the Work, including, but not limited to, the cost of labor, supervision, services, materials, equipment, tools, scaffolds, transportation, storage, insurance and taxes, and allowance for overhead and profit.

3. **Progress Payments.** Under most conditions, Contractor shall not provide progress payments. However, consideration of such payments shall be made upon request by sub contractor: by written notice to Contractor, or in the event that a job is scheduled to last longer than two (2) weeks according to the work order. In the latter condition, Contractor shall make special consideration to approve requests made for no more than the value of the work completed. Contractor shall not be obligated to accept progress payment requests.

4. **Final Payment.** A final payment, consisting of the unpaid balance of the Price, shall be made within 30 days after the last of the following to occur: (a) completion of the Work by Subcontractor, (b) acceptance thereof by the Owner, (c) final payment by Owner to Contractor under the Contract on account of the Work, (d) furnishing of evidence satisfactory to Contractor that there are no claims, obligations, or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes or other items performed, furnished or incurred in connection with the Work, (e) delivery of all guaranties, warranties, bonds, instruction manuals, performance charts, diagrams, as-built drawings and similar items required of Subcontractor or its suppliers or subcontractors and (f) delivery of general release, in a form satisfactory to Contractor, executed by Subcontractor running to and in favor of Contractor and Owner.

(I) Final Conditional Lien Waivers. Subcontract shall submit to Contractor with final payment application request in such form, as provided as part of this contract, a notarized final conditional lien waiver in the amount of the requested final payment application.

(II) Final Unconditional Lien Waiver. Subcontractor upon receipt of final payment shall immediately submit to Contractor in such form, as provided as part of this contract, via fax a notarized final unconditional lien waiver in the amount of the issued final payment. The Subcontractor shall then submit original copy to Contractor via mail service.

(III) Final Unconditional Lien Waiver of suppliers, material, men, and services subcontracted to others by Subcontractor. Subcontract shall submit to Contractor with final payment application request in such form, as provided as part of this contract, a notarized final unconditional lien waiver from suppliers, materialmen, equipment, and services furnished by others through the date of the project completion.

5. **Payment.** Subcontractor will receive the payments made by Contractor and will hold the right to receive such payments as a trust fund to be applied first to the payment of laborers, suppliers, subcontractors and others responsible for the Work justifying such payments, and all taxes and insurance applicable thereto; and Subcontractor will so apply the payments from Contractor.

Subcontractor shall, as often as requested by Contractor, furnish such information, evidence and substantiation Contractor may require with respect to the extent and value of current progress and the nature and extent of all obligations incurred by Subcontractor in connection with the Work and all payments made by Subcontractor on account thereof.

Contractor reserves the right to withhold, as an extraordinary reserve and without limiting its other rights and remedies, an amount sufficient: (a) to defend, satisfy and discharge any asserted claim that Subcontractor (or its subcontractors) has failed to make payment for labor, services, materials, equipment, taxes, or other items or obligations furnished or incurred in connection with the Work or has caused damage to the Work or to any other work on the Project or (b) to remedy any other default by Subcontractor thereunder.

No payment hereunder shall be conclusive evidence of the performance or progress of the Work and no payment shall be construed to be acceptance of defective, faulty or improper work or materials.

6. **Time.** Time is of the essence. Therefore, Subcontractor shall: (a) submit to Contractor within 10 days a detailed, proposed schedule for the Work for Contractor's use in preparing an overall progress schedule for the entire work and its several parts under the Contract; (b) begin the Work upon Contractor's order to do so; (c) coordinate and perform the Work, and its several parts, diligently and promptly and in such order and sequence as Contractor may direct as will assure the efficient and timely prosecution, and will not delay completion, of the entire work and its several parts under the Contract; and (d) furnish at all times sufficient, qualified and competent forces and supervision, and adequate, conforming and usable materials, equipment, plant, tools and other necessary things, to achieve progress according to Contractor's progress schedule, including any specific schedule for Subcontractor's Work attached hereto as Schedule D, and any revisions thereof by Contractor.

Without the generality of the foregoing, Subcontractor shall: (i) submit, with its proposed schedule, information showing the time required to prepare and approve shop drawings, to fabricate and deliver materials and equipment, and to install the Work; (ii) order for manufacture and/or purchase and delivery) all materials required for performance of the Work as soon as possible in order to avoid delays caused by unavailability, (iii) furnish Contractor within 30 days a list of major materials and equipment required for the Work, showing the name, address and telephone number of the supplier and the date on which such material and equipment is expected to be delivered to the Project site; (iv) furnish Contractor, upon issuance, a copy of each major purchase order and subcontractor (with price information deleted); (v) cause a qualified home office supervisory representative (while Subcontractor has forces at the Project site and for two weeks prior thereto) to attend weekly progressive meetings; and (vi) notify Contractor immediately by telephone and confirm in writing within 72 hours, if Subcontractor finds that any item cannot be delivered as required to maintain Contractor's progress schedule.

7. **Extension.** Should Subcontractor, without fault or neglect on its own part, be delayed in the commencement, prosecution, or completion of the Work by the fault or neglect of Contractor, Subcontractor shall be entitled to a reasonable extension of time, only. Should Subcontractor, without fault or neglect on its own part, be delayed in the commencement, prosecution, or completion of the Work by an Act of God or any other cause beyond the control of Contractor and Subcontractor that entitles Contractor to an extension of time under the Contract Documents, subcontractor shall be entitled to an extension of time, only, determined in accordance with the Contract Documents. In no event shall Subcontractor be entitled to compensation or damages for any delay in the commencement, prosecution, or completion of the Work except to the extent that Contractor shall receive such compensation or damages from Owner or other third party. Notwithstanding anything to the contrary in the Contract Documents or this Subcontract,

Subcontractor shall not be entitled to an extension of time unless a written notice of delay shall have been delivered to Contractor within 72 hours after commencement of the claim delay.

8. **Change Orders.** The Owner may require Contractor to make changes in the Work, including additions thereto and deletions there from. Without notice to any surety and without invalidating this Subcontract, Contractor may from time to time, by written order ("Change Order") to Subcontractor, make changes in the Work to the same extent and in the same manner as may be required of Contractor by Owner under the Contract Documents; and Subcontractor shall thereupon perform the changed Work in accordance with the terms of the Subcontract.

Upon request of Contractor, and in time and manner sufficient to permit Contractor to comply with its obligations under the Contract Documents, Subcontractor shall submit a written proposal for any applicable Price or time adjustment attributable to the changed Work, amply detailed and supported and conforming to the requirements of the Contract Documents.

The Price shall be adjusted by the net amount of any direct savings and direct cost (plus an allowance for overhead and profit) attributable to the Change Order, and the time for performance of the Work shall be adjusted to the extent necessarily affected by the Change Order, subject, however, in each case to the following limitations: (a) the price and time adjustments hereunder shall be limited to the amount and extent of adjustments actually allowed Contractor under the Contract Documents (less, in the case of Price, any markup or other similar amount allowed by Owner for Contractor's account); (b) where the Work affected by Change Order is the subject of unit prices under Exhibit C, the Price adjustment shall be limited to the amounts obtained by applying such unit prices; and (c) the amount allowable for overhead and profit shall be limited to an allowance obtained by applying Profit Percentage to the net amount of the Subcontractor's direct savings and direct costs.

As used in this Subcontract, Subcontractor's direct savings and direct costs shall mean and be limited to the actual amount of the following: cost of materials, including sales tax and cost of delivery; cost of labor, including social security, old age and unemployed insurance, and fringe benefits required by agreement of custom; workmen's compensation insurance, bond premiums; and actual rent, or reasonable rental value of Subcontractor owned equipment and machinery.

If the parties are able to agree upon the amount of the Price adjustment and the extent of any time adjustment, such adjustment shall be set forth in the Change Order, which shall be accepted by Subcontractor. If the parties are unable to agree upon such adjustments, Contractor may elect to issue the Change Order to Subcontractor and any adjustments to Price or time shall be subject to ultimate determination in accordance herewith; and Subcontractor shall, nonetheless, proceed immediately with the Change Order Work.

9. **Extra Work.** In addition to Change Orders issued under paragraph 8 above as a result of changes ordered by Owner or Architect, Contractor may from time to time, without notice to any surety and without invalidating this Subcontract, require written order that Subcontractor perform extra Work reasonable related to the original Work hereunder.

Contractor or Subcontractor may also perform such extra Work (meaning work or services not required by the Subcontract or by Change Order issued under paragraph 8 above) pursuant to written agreements made from time to time for the benefit of the other party or persons or entities responsible to such other party. Such extra Work shall be invoiced weekly, in reasonable detail and amply supported, on the basis of the performing party's actual direct costs, and without overhead or profit or allowances therefore. Payment of such invoices shall be made at the time of the next ensuing progress payment or final payment hereunder. In no event shall Subcontractor proceed with changed or extra Work without a Change Order issued under paragraph 8 above or a written order or agreement for extra Work under this paragraph 9; and Contractor shall not be liable for any additional costs incurred or delays encountered in the performance of such Work without such a written order.

10. **Bonds.** If so indicated on page 1 hereof, Subcontractor shall furnish, within 10 days, at its expense, a performance bond and a payment bond, each in an amount equal to the Price, on Contractor's standard form and with surety or sureties satisfactory to Contractor.

11. **Insurance.** Before commencing the Work and until one year after completion and final acceptance thereof by Owner, Subcontractor shall obtain and maintain, at its expense, at least the insurance coverage's specified in Schedule E attached hereto, all from companies, and in form and substance, acceptable to Contractor.

As a condition of payment for the Work, Subcontractor shall furnish a certificate, satisfactory to Contractor, from each insurance company, showing the required insurance to be in force and stating that the insurance will not be canceled or changed except upon at least 15 days written notice thereof to Contractor or as otherwise required by the Contract Documents. These certificates must refer to the job name and address of the jobsite for each job and listed additional insured as required by Contractor, Owner and Developer for each job in order for them to be accepted by the Contractor.

To the extent that Subcontractor maintains insurance coverage for loss or damage to property, Subcontractor hereby waives subrogation of claims against Contractor, Owner, other subcontractors, and their agents, employees and servants.

12. **Indemnify.** To the full extent permitted by law, Subcontractor agrees to defend, indemnify and save harmless, McGuyver Painting Specialists, LLC, Contractor and Owner, and their agents, servants and employees, from and against any claim, cost, expense, or liability (including attorneys' fees), attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), caused by, arising out of, resulting from, or occurring in connection with the performance of the Work by Subcontractor, its subcontractors, or their agents, servants, or employees, whether or not caused in part by the active or passive negligence or other fault of a party indemnified hereunder; provided, however, Subcontractor's duty hereunder shall not arise if such injury, sickness, disease, death, damage, or destruction is caused by the sole negligence of a party indemnified hereunder. The provisions of any workmen's compensation or similar act hereunder shall not limit subcontractor's obligation.

Should Owner or any other person assert a claim or institute a suit, action, or proceeding against McGuyver Painting Specialists, LLC, the Contractor, involving the manner or sufficiency of the performance of the Work by the Subcontractor, Subcontractor shall upon request of McGuyver Painting Specialists, LLC or Contractor promptly assume the defense of such claim, suit, action or proceeding at Subcontractor's expense, and Subcontractor shall indemnify and save harmless McGuyver Painting Specialists, LLC, the Contractor and its agents, servants and employees, from and against any liability, loss, damage, or expense arising out of or related to such claim, suit, action, or proceeding.

13. **Assignment.** Subcontractor shall not assign this Subcontract or any Monies due or to become due hereunder, or subcontract any substantial part of the Work, without the prior written consent of Contractor. Subcontractor shall not be relieved of its duties and obligations hereunder by any assignment of subcontract and shall be and remain as fully responsible and liable for the acts and omissions of its assignees and subcontractors, and all persons directly or indirectly employed by them, as Subcontractor is for its own acts and omissions and those of its agents, servants and employees.

14. **Compliance.** Subcontractor shall, at its own expense, obtain all necessary licenses and permits pertaining to the Work and comply with all statutes, ordinances, rules, regulations and orders of any governmental or quasi-overnmental authority having jurisdiction over the Work or the performance thereof, including, but not limited to, those relating to safety, wages, discrimination and equal employment opportunity. Subcontractor shall promptly correct any violations of such statutes, ordinances, rules, regulations and orders committed by Subcontractor, its agents, servants and employees; and Subcontractor shall receive, respond to, and shall defend, indemnify and save harmless Contractor and Owner and their agents, servants and employees from and against any loss, liability or expense arising from, any such violations and citations, assessments, fines or penalties, resulting there from.

15. **Safety.** Subcontractor agrees that the prevention of accidents to workmen engaged upon or in the vicinity of the Work is its responsibility, even if Contractor establishes a safety program for the entire Project. Subcontractor shall establish and implement safety measures, policies and standards conforming to those required or recommended by governmental and quasi-governmental authorities having jurisdiction and by Contractor and Owner, including, but not limited to, any requirements imposed by the Contract Documents. Subcontractor shall comply with the reasonable recommendations of insurance companies having an interest in the Project; and shall stop any part of the Work, which Contractor deems unsafe until corrective measures satisfactory to Contractor shall have been taken. Contractor's failure to Subcontractor's unsafe practices shall not relieve Subcontractor of its responsibility thereof.

16. **Cleaning Up.** Subcontractor shall, at its own expense: (a) keep the premises at all times from waste materials, packaging and other debris accumulated in connection with the Work, by collecting and removing such debris from the job site on a daily basis; (b) at the completion of the Work in each area, sweep and otherwise make the Work and its immediate vicinity "Broom Clean"; (c) remove all of its tools, equipment, scaffolds, temporary structures and surplus materials as directed by Contractor at the completion

of the Work; and (d) at the final inspection clean and prepare the Work for acceptance by Owner. Project shall not be considered complete until all clean up has occurred and is accepted by Owner.

Subcontractor shall assume responsibility for any and all clean-up of jobsite caused from performing and completing the project including but not limited to: paint drips, paint chips, trash, overspray, and paint spilled on premise or in transit to or from jobsite. Subcontractor shall assume responsibility for removing all paint on any surface not intended for painting including but not limited to: bricks, glass, cement, landscaping, carpets/flooring, stained wood trim and fixtures in a manner that will not damage surface. Subcontractor shall take reasonable steps to prevent said circumstances by properly masking all non-painted surfaces, using paper/plastic to cover areas, and using drop-clothes.

17. **Temporary Facilities.** Temporary facilities and services shall be provided in accordance with Schedule F attached hereto.

18. **Quality.** Subcontractor shall provide quality materials and workmanship conforming to Contract requirements and good industry practices. Subcontractor shall provide proper facilities and opportunity at all times for the inspection of the Work by Contractor, Architect and Owner and their representatives. Subcontractor shall, within 24 hours after receiving written notice from Contractor or Architect shall have condemned as unsound, improper, or in any way failing to conform to the Contract Documents or this Subcontract and shall replace the same with proper and satisfactory Work and make good all work damaged or destroyed thereby. Contractor's failure to discover and notify Subcontractor of defective or nonconforming Work, at the time the Work or any portion thereof is performed or completed, shall not relieve Subcontractor of responsibility for replacement of the defective or nonconforming Work and all damages resulting there from. If the Owner elects to accept defective or nonconforming Work, Contractor may require an appropriate and equitable adjustment in the Price to the extent required of Contractor.

19. **Guarantees.** Subcontractor warrants and guarantees the Work to the full extent provided for in this Subcontractor Agreement. All warranties and guarantees shall be in accordance with Schedule H and the attached Guarantee form below.

20. **Submittals.** Subcontractor shall immediately prepare or obtain and promptly submit to Contractor shop and erection drawings, samples, product data, catalogue cuts, laboratory and inspection reports and engineering calculations, all as may be required by the Contract Documents or may be necessary or appropriate to describe the details of the Work. Approval of drawings or other submittals by Contractor or Architect shall not relieve Subcontractor of its obligation to perform the Work in strict accordance with the Contract Documents or its responsibility for the proper matching of the Work to contiguous work.

21. **Performance.** The Work shall be performed and furnished under the direction and to the satisfaction of the Architect and Contractor, but Subcontractor shall not thereby be relieved of its obligation to supervise the Work, using its best skill and attention, or its obligation to perform the Work as provided for herein. Subcontractor shall be bound by the interpretations and decisions of the Architect and Owner to the same extent as Contractor may be bound thereby under the Contract Documents.

Subcontractor shall notify and obtain the approval of Contractor before the arrival of forces or delivery of materials and equipment to the job site, before any substantial change in its forces, and before leaving the job site for any reason.

Subcontractor shall timely check all Contract Documents and notify Contractor of any discrepancies or conflicts before performing the Work, and Subcontractor shall be responsible for any extra cost resulting from its failure to do so. Subcontractor shall cooperate with Contractor and other subcontractors in the preparation of coordinated drawings in areas of congestion.

22. **Liens.** Subcontractor shall defend, indemnify and save harmless McGuyver Painting Specialists, LLC, the Contractor, Contractor's sureties and Owner from any lien or claim of lien filed or maintained by any laborer, materialman, subcontractor, or other person directly or indirectly for, through, or under Subcontractor, against the Project or any part thereof or any interest therein or against any monies due or to become due from Owner to Contractor or from Contractor to Subcontractor. Without limiting the foregoing, Subcontractor shall cause any lien or claim of lien to be satisfied, removed or discharged by bond, payment, or otherwise within 10 days from the date of filing or receipt as the case may be.

23. **Labor.** Subcontractor agrees that where its work is stopped, delayed or interfered with by strikes, slow downs or similar interruptions or disturbances (including cases where the Subcontractor's employees are engaged in a work stoppage solely as a result of a labor dispute involving Contractor or others and not in any manner subcontractor). Contractor shall have the rights and remedies provided for in paragraph 24. Subcontractor shall maintain and exercise control over all employees engaged in the performance of the Work, and Subcontractor shall, to the extent permitted by law, remove or cause to be removed from the Project any employee whose presence is detrimental to the orderly prosecution of Work.

24. **Damage.** Contractor shall not be liable or responsible for loss or damage to the equipment, tools, facilities or other personal property owned, rented, or used by Subcontractor or anyone employed by Subcontractor, in the performance of the Work; and Subcontractor shall maintain such insurance and take such protective action as it deems desirable with respect to such property. Except to the extent of any proceeds received by Contractor for the Benefit of Subcontractor under a policy of builders' risk or fire insurance, Contractor shall not be liable or responsible for any loss or damage to the Work, and subcontractor shall be responsible for the correction or restoration of any such loss or damage to the Work, or to the work of Contractor or any other subcontractor, resulting from the operations of Subcontractor, or its subcontractors, agents, servants, or employees hereunder. Subcontractor shall take reasonable precautions to protect the Work from loss or damage prior to acceptance by Owner.

25. **Default.** Should Subcontractor at any time: (a) fail to supply the labor, materials, equipment, supervision other things required of it in sufficient quantities and of sufficient quality to perform the Work with the skill, conformity, promptness, and diligence required hereunder, (b) cause stoppage or delay or interference with the Project work, (c) become insolvent, or (d) fail in the performance or observance of any of the covenants, conditions, or other terms of this Subcontract, then in any such event, each of which shall constitute a default hereunder by Subcontractor, Contractor shall, after giving Subcontractor notice of default and 48 hours within which to cure, have the right to exercise any one or more of the following remedies:

(i) Require the Subcontractor utilize, at its own expense, overtime labor (including Saturday and Sunday work) and additional shifts as necessary to overcome in the consequences of any delay attributable to Subcontractor's default.

(ii) Remedy the default by whatever means Contractor may deem necessary or appropriate, including, but not limited to, correcting, furnishing, performing, or otherwise completing the Work, or any part thereof, by itself or through others (utilizing where appropriate any materials and equipment previously purchased for the purpose by Subcontractor) and deducting the cost thereof (plus an allowance for administrative burden equal to 15% of such costs) and other damages under the Subcontract and for the breach thereof, it being intended that Contractor shall, for the stated purposes, be the assignee of and have a security interest in the property describe above to the extent located on the Project site (and Contractor may at any time file this Subcontract as a financing statement under applicable law); and

(iii) After giving Subcontractor an additional 48 hours notice (at any time following the expiration of the initial 48 hours notice and curative period), terminate this Subcontract, without thereby waiving or releasing any rights or remedies against Subcontractor of its sureties, and by itself or through others take possession of the Work, and all materials, equipment, facilities, plant, tools, scaffolds and appliances of Subcontractor relating to the Work, for the purposes of completing the Work and securing to Contractor the payment of its costs (plus an allowance for administrative burden equal to 15% of such costs) and other damages under the Subcontract and for the breach thereof, it being intended that Contractor shall, for the stated purposes, be the assignee of and have a security interest in the property described above to the extent located on the Project site (and Contractor may at any time file this Subcontract as a financing statement under applicable law); and

After completion of the Work by the exercise of any one more of the above remedies and acceptance of the Work by Architect and payment therefore by Owner, Contractor shall promptly pay Subcontractor any balance of the Price.

Except as limited by this Subcontract, Subcontractor shall have the rights and remedies available at law or equity for a breach of this Subcontract by Contractor. Any default by Contractor shall be deemed waived unless Subcontractor shall have given Contractor written notice thereof within 7 days after the occurrence of such default. Subcontractor shall not be entitled to stop the Work or terminate this Subcontract on account of Contractor's failure to pay an amount claimed due hereunder (including change or extra Work) so long as Subcontractor shall not have adequately substantiated the amount due or so long as a good faith dispute exists as to the amount due. Subcontractor shall not be entitled to stop the Work on account of default by Contractor unless such default shall have continued for more than 7 days after Contractor's receipt of written notice of such default from Subcontractor.

Subcontractor shall not be entitled to terminate this Subcontract except for a substantial and material breach by Contractor which shall have continued, uncured, for at least an additional 30 days after (1) Subcontractor shall have stopped work in accordance with the requirements hereof and (2) Contractor shall have received written notice of Subcontractor's intention to terminate this Contract.

26. **Disputes.** In the event of any dispute between Subcontractor arising under or relating to this Subcontract, or the breach thereof, which involves the correlative rights and duties of Owner, the dispute shall be decided in accordance with the Contract Documents, and Subcontractor, and its sureties, shall be bound to Contractor to the same extent that Contractor is bound to Owner by the terms of the Contract and by any decision or opportunity to present information and testimony involving its rights and shall have the duty to cooperate with Contractor.

If a dispute should arise between Contractor and Subcontractor under or relating to the Subcontract, or the breach thereof, which does not involve the correlative rights and duties of Owner and is not, therefore, controlled by the foregoing provision, then either party may seek redress of its grievances at law or in equity or, upon written agreement, the parties may mutually decide to pursue an alternative means of settlement, including arbitration.

The pendency of dispute shall not interfere with the progress of the Work by Subcontractor nor limit the right of Contractor to proceed, in good faith, to remedy an alleged default by Subcontractor.

27. **Early Termination.** If Owner terminates the Contract or stops the Work for a reason other than the default of Contractor, Contractor may terminate this subcontract or stop the Work for the same reason, and Subcontractor's rights and remedies (including the basis for compensation) shall be limited to the corresponding rights and remedies available to Contractor under the Contract Documents. In no event shall Subcontractor be entitled to consequential damages or loss of profits of the Work not yet performed.

28. **Notices.** All written notices provided for in this subcontract or in the Contract Documents shall be deemed given if delivered personally to a responsible representative of the party or if sent by by electronic mail or by regular mail to the party at its address specified herein. Either party may from time to time, by notice to the other as herein provided, designate a different address to which notices to it should be sent.

29. **Miscellaneous.** (a) All matters relating to the validity, performance, or interpretation of this Subcontract shall be governed by the law applicable to the validity, performance, or interpretation, as the case may be, of the Contract.

(b) This Subcontract shall be governed by the laws of the state of Colorado. Any action against this contract shall be resolved in the county of Larimer.

(c) This Subcontract, including the documents incorporated herein by reference, embodies the entire agreement of the parties and supersedes all prior negotiations, agreements and understandings relating to the subject matter hereof.

(d) This Subcontract may not be changed in any way except as herein provided or by a writing signed by a duly authorized officer or agent of each party. No requirement of this Subcontract may be waived except in writing signed by a duly authorized officer of the waiving party.

(e) The provisions of this Subcontract and the Contract Documents are intended to supplement and complement each other. If, however, any provision of this Subcontract irreconcilably conflicts with a provision of the Contract Documents, the provision imposing the greater duty on the Subcontractor shall govern.

(f) Where the context requires, neuter terms used herein shall include the masculine and feminine, and singular terms shall include the plural, and vice versa.

IN WITNESS WHEREOF, the parties have duly executed this Subcontract as of the date signed below.

ATTEST:

CONTRACTOR

Print Name

Job Title

Company

Signature

Date

Print Name

Job Title

Company

Signature

Date

Subcontractor Check One:

- Corporation
- Partnership/Joint Venture
- Individual

*Subcontractor's Federal Employee Identification No. _____

(If no E. I. Number, enter business owner's Social Security No.)

*Per IRS Sec. 3402(s). 15% of each payment is required to be withheld and remitted to the IRS if E.I. number or Social Security is not provided. This withholding will be in addition to subcontract retainage.

SCHEDULE A

WORK: Pursuant to paragraph 1 of this Subcontract, Subcontractor shall prosecute and complete the following
Work: See work order(s)

Work to be in accordance with state, county and local codes, and any restrictions having jurisdiction. Contracts to include, but not necessarily limited to the following:

Work Description: See Work order(s) _____

SCHEDULE B

Addenda-Modification documents

CONTRACT DOCUMENTS: The Contract Documents referred to in paragraph 1 and elsewhere in this Subcontract consist of the Contract and the following:

{Contracts Addenda}, {Contracts Exhibits}, {Contracts Schedules}

If applicable Please see attachment labeled "Schedule B Addenda".

SCHEDULE C

SUPPLEMENTAL PRICE SCHEDULE

Unit Prices Pursuant to paragraphs 2 and 8 of this Subcontract, the following unit prices shall be used in determining the Price and any adjustment thereto, without limitation unless expressly provided herein: N/A

Allowances: The Price specified on page 1 of the Subcontract includes the following allowances for the parts of the Work specified below, to be furnished by Subcontractor in accordance with the Contract Documents: N/A

Alternates: The Price specified on page 1 of the Subcontract includes the following for the parts of the Work specified below, to be furnished by Subcontractor in accordance with the Contract Documents: N/A

SCHEDULE D

PERFORMANCE SCHEDULE:

Pursuant to paragraph 6 of this Subcontract and without limiting the provisions thereof, Subcontractor shall perform the Work and its several parts according to the following specific schedule, and as the same may be revised from time to time by Contractor:

Start date: See Work Order

Substantial Completion date: See Work Order

If applicable Please see attachment labeled "Schedule D" project Schedule.

SCHEDULE E

INSURANCE: Pursuant to paragraph 11 of this Subcontract, Subcontractor shall maintain at least the following insurance coverage's in addition to any other coverage's or any greater limits required by the Contract Documents:

Type of Insurance	Minimum Limits	Must meet statutory limits
1. Workers' Compensation	\$ 100,000 \$ 100,000 \$ 500,000	Each accident Disease – each employee Disease – policy limit
2. General Liability	\$ 1,000,000 \$ 2,000,000 \$ 2,000,000	Each occurrence General Aggregate Products

Certificate Holder:

Contractor

Additional Insured's:

Contractor

SCHEDULE F

TEMPORARY FACILITIES: All temporary site facilities, such as storage, sheds, water, heat, light, power, toilets, hoists, elevators, scaffolding, cold weather protection, ventilating, pumps, watchman service, etc., required in performing the Work shall be furnished by Subcontractor except as follows (here insert items to be furnished by Contractor): N/A

In connection with furnishing of the temporary facilities indicated, Contractor shall not be liable for conditions beyond the control of Contractor that may interrupt, delay or otherwise interfere with the availability of such facilities to Subcontractor. Unless otherwise expressly indicated, the temporary facilities furnished by N/A shall not be for the exclusive use of Subcontractor, but shall be shared by others performing work on the Project. Contractor therefore reserves the exclusive right to schedule the use of any facilities in accordance with its determinations as to the needs of the Project, and Contractor shall incur no liability as a result thereof.

If either party from time to time furnishes the other a crane, hoisting equipment, or other machinery or equipment, with or without an operator, for such party's exclusive use, then the using party shall at all times furnish adequate and competent supervision and direction therefore and shall be liable and responsible for safe and proper care and use.

SCHEDULE G

CHANGE ORDERS – extra work

Pursuant to paragraph 8 and paragraph 9 of this Subcontract, Subcontractor shall submit all potential change orders with a documented work order, with itemized materials cost, and/or itemized labor cost. Work order must be signed and approved by on site construction manager, project manager and /or contractor representative. Work order must be submitted with Application for payment.

SCHEDULE H

Limited Warranty : 2 yr and 5 yr

The contractor's work is warranted to be free of material and workmanship defects, such as blistering, peeling or chipping paint, for a period of twenty four (24) months after completion of work, subject to the limitations described below. This limited warranty will be valid for sixty (60) months after completion of work, subject to the limitations described below, only when the Premium Paint Job option is selected by customer and completed by the contractor. The limited warranty is effective upon receipt of full payment from customer for work performed under this agreement. Limited warranty is not valid if full contract price is not paid. Customer must retain a copy of the original contract and this warranty.

The following items are not covered under the Limited Warranty:

- any work that is not performed by the contractor
- any work in which the materials or paint were not supplied by the contractor
- varnished surfaces or any galvanized metal areas such as rain gutters and flashing are not covered by this warranty
- any horizontal surface that may collect moisture, including but not limited to decks, stairs, railings, porches, and roofs
- exact paint color match. Due to the natural fade of colors new paint may not be an exact match
- any repairs to the structure including but not limited to foundations, siding, eaves, fascia, gutters, roofs, doors, windows and trim boards which are necessitated as a result of a defect in materials or workmanship regardless of who supplied the materials
- bleeding caused by rust, sap, mildew or any other substance
- cracks in wood surfaces or drywall surfaces
- mildew formation
- complete or partial failure of materials and/or workmanship caused by, or any other damage caused by.:
 - normal wear and tear
 - fire, flood, hail, other "acts of God", vandalism, negligence, abuse, sprinklers, modifications or any other similar causes that are not under control of the contractor
 - accidental or intentional exposure to chemicals or cleaning agents
 - structural defects, movement, and/or deterioration
 - peeling, cracking or blistering of any paint layers existing prior to work performed by contractor
 - unusual use or misuse
 - moisture content of the substrate
 - neglect or misuse by the homeowner

This warranty is not valid if the customer chooses to have only minimal preparation work done (e.g., limited priming, caulking, sanding, scraping).

Warranty work is limited to the preparation described in this contract and repainting of the specific failing areas. Entire walls, fascias, eaves, etc. will only be repainted if the more than half of the affected surface is failing.

Warranty work will be performed in a reasonable time period after the contractor is notified. However, contractor may not perform warranty work during inclement weather or colder seasons. During warmer seasons, contractor may take up to 90 days to complete warranty work.

This limited warranty is the only warranty, express or implied, and may not be altered or extended for any reason unless done so in writing by all parties prior to commencement of any work. Under no circumstances shall the contractor be held liable for any warranty work that exceeds the original contract price.

Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation may not apply to you. This Limited Warranty gives you specific legal rights and you may have other rights which vary from State to State.

SUBCONTRACTOR REFERENCE CHECKLIST

- I. **PRIOR TO COMMENCEMENT OF JOB:**
- EVIDENCE OF WORKERS' COMPENSATION INSURANCE W/ ADDITIONAL INSUREDS
 - OR COMPLETED "DECLARATION OF INDEPENDENT CONTRACTOR STATUS FORM" IF NO EMPLOYEES
 - EVIDENCE OF LIABILITY INSURANCE, W/ ADDITIONAL INSUREDS
 - TAX I.D. NUMBER (W-9 completed and turned in)
 - REVIEW AND EXECUTE WORK ORDER
- II. **APPLICATION FOR PAYMENT:**
- SUBMITTED AN INVOICE TO CONTRACTOR FOR PAYMENT.
 - PROPERLY EXECUTED RELEASES OF LIENS (CONDITIONAL AND UNCONDITIONAL) FROM ALL SUPPLIERS/SUB-SUBCONTRACTORS USED THROUGH THE 30TH DAY OF THE MONTH PER PROJECT.
- *** MUST HAVE **ORIGINAL** SIGNATURE.
- *** FOR DOCUMENTS REQUIRING SIGNATURES: FAXES FOR APPROVAL ONLY! ORIGINALS REQUIRED FOR PAYMENT.
- *** NOTE: NO JOBS FUNDED UNTIL PAYMENT IS RECEIVED BY OWNER (IN ACCORDANCE WITH YOUR SUBCONTRACT).

IF ALL ITEMS LISTED ON THIS CHECKLIST HAVE BEEN COMPLETED IN
ADVANCE YOUR
INVOICES WILL BE PROCESSED WITHOUT DELAY

GUARANTEE FORM

We hereby guarantee that as a sub contractor _____ for **Contractor**, that all work will be done in strict accordance with the work order and/or drawings and specifications and that the work installed will fulfill the requirements of those specifications. We agree to repair or replace or cause to be repaired or replaced any or all our work, which may prove to be defective in workmanship or materials, together with any adjacent work which requires repair or replacement because of our defective work, within a period of not less than twenty four (24) months from the date payment is released to subcontractor, and within a period of not less than sixty (60) months when the Premium Paint Job option is provided to the customer, at our sole expense for all projects completed for Contractor. We understand that it is our responsibility to clarify with Contractor the warranty period that applies to each project and we agree to uphold the warranty for the specific warranty time period that applies to each project. See terms and list of exclusions provided in Schedule H.

If we fail to start compliance with the above paragraph within thirty (30) days after receipt of written notice from Contractor to do so, or fail to pursue such compliance with diligence, we jointly and severally, do hereby authorize the Contractor to proceed to have the defects repaired and made good at our sole expense, and we will honor and pay the cost and charges for it. If we fail to fulfill the preceding obligations, and if Contractor brings action to enforce this guarantee, we agree to pay Contractor reasonable attorney's fees incurred in connection therewith.

Signed:

By:

Address:

Phone:

Fax: