CONSTRUCTION SUBCONTRACT

(Between Direct Contractor and Subcontractor) In Compliance with CA Labor Code §2818.9 & CA Civil Code §8811

THIS AGREEMENT IS BETWEEN:

_____ (Direct Contractor's Name) **AND** _____ (Subcontractor's Name)

_____ (Direct Contractor's License Number) _____ (Subcontractor's License Number)

_____ (Direct Contractor's Address) _____ (Subcontractor's Address)

_____ (City, State & Zip) _____ (City, State & Zip)

_____ (Direct Contractor's Telephone) (Direct Contractor's FAX) _____ (Subcontractor's Telephone) (Subcontractor's FAX)

Email _____ (Direct Contractor's) **Email** _____ (Subcontractor's)

NAME AND ADDRESS OF OWNER IF DIFFERENT THAN DIRECT CONTRACTOR AND CONSTRUCTION LENDER:

_____ (Owner's Name) _____ (Lender's Name)

_____ (Owner's Address) _____ (Lender's Address)

_____ (City, State & Zip) _____ (City, State & Zip)

_____ (Telephone) (FAX) _____ (Telephone) (FAX)

Email _____ (Owner's) **Email** _____ (Lender's)

RE PROJECT:

_____ (Name)

_____ (Address)

_____ (City, State & Zip)

_____ (Telephone) (FAX)

1. Description of Work: Subcontractor will furnish all labor and materials to construct and complete, upon the project described above, in a good, workmanlike, and substantial manner all _____ (Describe Labor, Work, Materials And Equipment To Be Supplied/Provided)

In accordance with the following plans, specifications and contract documents: _____ (Refer To Plans, Direct Contract. Etc.)

2. Payment Schedule: Direct Contractor agrees to pay Subcontractor the sum of $ _____. Subcontractor shall submit an Application for Payment to the Direct Contractor on the last day of each month. The amount of payment that Subcontractor shall be entitled to will be based upon a percentage of the value of the work completed during that calendar month. Direct Contractor shall pay Subcontractor (retention cap of 5%) within 7 days of when the Direct Contractor is paid by Owner.

3. Timing of Work: Subcontractor shall commence work after being advised to proceed, as set forth in Paragraph 18. In the event that the Direct Contractor has no schedule for the Project, Subcontractor agrees to proceed with the work upon notice from the Direct Contractor and shall complete its work hereunder within _____ calendar days thereafter, subject to excusable delays. Subcontractor will not deliver any materials to the job site or commence work until notified to do so by the Direct Contractor.

For Private Construction Contracts entered on or after **January 1, 2026**, a direct contractor may be responsible if a subcontractor or lower-tier subcontractor fails to pay workers for labor performed on the project. This includes unpaid wages, fringe benefits, benefit contributions, interest, and sometimes penalties or liquidated damages. The direct contractor can reduce liability for penalties by:

- reviewing subcontractor payroll records
- monitoring wage and benefit payments
- correcting payment issues when discovered
- withholding funds if needed
- obtaining an affidavit before final payment confirming workers and benefit funds were paid

Subcontractors must provide payroll and project information when requested. If they do not, the direct contractor may withhold disputed payments, but the required documents must be listed in the subcontract for contracts entered into on or after **January 1, 2026.** Claims must generally be filed within one year of project completion, notice of completion, or notice of cessation.

Firm Name: _____ (Direct Contractor's Firm Name, if Any) Firm Name: _____ (Subcontractor's Firm Name, if Any)

X _____ (Direct Contractor's Or Agent's Signature) **X** _____ (Subcontractor; Or Agent Signature)

Date: _____ Date: _____

Direct Contractor's License No. _____ Subcontractor's License No. _____

TERMS AND CONDITIONS: The terms and conditions on the reverse side are expressly incorporated into this Agreement.

SAMPLE

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TERMS AND CONDITIONS

1. Prime Contract: Subcontractor will perform for **Contractor** all of the obligations that Contractor is required to perform for Owner under the contract documents to the extent that such obligations relate to Subcontractor's work or are customarily performed by Subcontractor's trade. The work required to be performed by Subcontractor is not confined to any particular portion of the drawings or section of the specifications, but may be scattered throughout the contract documents. In the event of disagreement between Subcontractor and Contractor or any other subcontractor as to the portions of the work required to be performed by Subcontractor, the Contractor will give due consideration to the contentions of all subcontractors. The orders of Contractor shall be followed and the decision of Contractor shall be final.

2. Investigation by Subcontractor: Subcontractor has carefully examined and understands this Subcontract and the other contract documents, and has investigated the nature, locality and site of the work and the conditions and difficulties under which it is to be performed. Subcontractor enters into this agreement on the basis of its own examination, investigation and evaluation of all such matters, and not in reliance on the opinions or representations of Contractor and/or Owner. If there are any inconsistencies between the contract documents, or ambiguities in any contract document, Subcontractor shall bring such inconsistencies or ambiguities to the attention of Contractor before the execution of this Subcontract; otherwise, Subcontractor shall be bound by Contractor's resolution of such inconsistencies or ambiguities.

3. Concealed Conditions: By executing this Subcontract, Subcontractor represents that it has made a thorough examination of the job site and has located and allowed for all conditions, including concealed underground conditions such as rock and utilities, that are to be encountered in the performance of the work. Subcontractor has taken such conditions into account in arriving at the Subcontract price. No additional compensation or extension of time shall be allowed because of concealed or unforeseen conditions about the job site.

4. Default: In the event that Subcontractor appears likely to be unable to complete the work on schedule, or if Subcontractor fails to fully perform its duties under this Subcontract, or if Subcontractor becomes insolvent, or fails to supply sufficient forces to maintain the schedule, or is guilty of any other default under this Subcontract, then Contractor may (a) withhold payment for work performed under this Subcontract or withhold payment of any other obligation of Contractor to Subcontractor, (b) after giving 24 hours written notice to Subcontractor, eject Subcontractor and take over Subcontractor's work and terminate Subcontractor's right to perform under the Subcontract. If Contractor takes over Subcontractor's work, then Contractor will charge Subcontractor for all costs incurred as a result, including reasonable overhead and profit and including attorney's fees and other expenses. If the total amount exceeds the unpaid balance of the Subcontract, then Subcontractor shall pay the difference to Contractor. If the amount is less than the unpaid balance of the Subcontract, the excess shall be paid by Contractor to Subcontractor. If Contractor takes over Subcontractor's work, Subcontractor shall permit Contractor to take possession of all materials, equipment, tools and appliances at the job site for the purpose of completing Subcontractor's work. Subcontractor will cooperate with Contractor to facilitate an orderly take-over.

5. Arbitration: Any controversy arising out of the performance or non-performance of the work required by this Subcontract or any sub-subcontract, or the interpretation thereof, is subject to arbitration, and judgment may be entered on the award. All sub-subcontractors and material suppliers to Subcontractor are bound by this arbitration provision. Arbitration shall be in accordance with the arbitration provision contained in the contract between the Contractor and the Owner, when there is such an arbitration provision. Upon the demand of any party, any other party subject to this arbitration agreement shall join in and become a party to and be bound by such arbitration proceedings. If, because of the objections of other parties, or because of the structure of the arbitration clause in the agreement between Contractor and Owner, it is not possible for Subcontractor, or its subcontractors or suppliers, to become parties to the arbitration proceedings, and if Subcontractor's work or performance becomes an issue in arbitration proceedings between Contractor and Owner, then Subcontractor will, at its own expense, supply counsel, evidence, and witnesses to establish Subcontractor's performance of its obligations to Contractor under this Subcontract. Subcontractor will be bound to Contractor by the award, so far as it applies to Subcontractor's portion of the work, to the same extent that Contractor is bound to Owner by the award. If there is no arbitration clause in the contract between Contractor and Owner, then arbitration shall be in accordance with the Construction Industry Rules of the American Arbitration Association. Should any party refuse or neglect to appear at, or participate in, arbitration proceedings after due notice, the arbitrator will decide the controversy in accordance with evidence introduced by the party or parties who do appear. The arbitrator will award reasonable attorney's fees to the prevailing party. Rescission of this Subcontract shall not impair this arbitration agreement.

6. Attorney's Fees: If the Contractor becomes involved in litigation or arbitration proceedings with Subcontractor, or any other party arising out of or related to this Subcontract or Subcontractor's performance of the work under this Subcontract, then the prevailing party shall be entitled to recover reasonable attorney's fees.

7. Final Payment: The final payment (exclusive of the retention) will be due when the Subcontractor's work has been completed and accepted by Contractor and Owner and after Owner makes the final payment to the Contractor.
The acceptance of final payment constitutes a waiver of all claims by Subcontractor against Contractor or Owner for compensation for extra work or for compensation or damages of any kind claimed by Subcontractor because of the activities of Contractor, other Subcontractors, or Owner in connection with the project.

8. Payment Not Approval: It is not to be inferred from the fact that Contractor makes payments to Subcontractor under this agreement that Contractor accepts, or has approved, any work performed by Subcontractor. Contractor may not waive its right to insist on full compliance by Subcontractor with all the requirements of the contract documents except in a written document, approved in writing by Owner, and specifying the precise things accepted by Contractor.

9. Mechanics Lien Releases: No payment will be made by Contractor to Subcontractor until Subcontractor has provided to Contractor properly executed mechanics lien releases on forms approved by Contractor and its counsel. The releases will acknowledge payment in full for all work, equipment, or materials supplied to the project prior to the cut-off date of Subcontractor's application for payment. Subcontractor will further supply, if Contractor requests as a condition to each progress payment, evidence in the form of invoices and cancelled checks to show that all such payments have been made.

10. Payment of Retention: The 10% retention shall be paid 35 days after Notice of Completion has been recorded and after Contractor has been paid its retention by Owner.

11. Change Orders: The subcontract price shall be deemed to be full compensation for all work and materials furnished by Subcontractor whether specifically called for in the contract documents or not, and no additional compensation shall be paid to Subcontractor unless a written change order has been signed by Contractor in advance of the extra work, stating that the work is extra work and designating any additional amounts to be paid. If Subcontractor contends that any work or materials furnished by Subcontractor should be paid for as extra work, the Subcontractor must give written notice to Contractor to that effect within ten days after the work or materials in question are first furnished. Otherwise, it will be conclusively presumed that the Contractor and Subcontractor have agreed that such work or materials are within the original scope of the work and that no additional compensation will be paid for the extra work. In no event shall Subcontractor be allowed additional compensation or time unless owner grants same to Contractor.

12. Back Charges: Subcontractor will promptly pay Contractor for any damage or loss that Contractor may sustain as a result of Subcontractor's performance or failure of performance.

13. Building Permits: Subcontractor will provide and pay for all licenses and building permits that are necessary or convenient to Subcontractor's work. Subcontractor shall not, however, be required to pay use fees, hookup charges, sewer or other utility reimbursement fees, or similar charges or exactions that are required as a means of financing public improvements or utilities unless Contractor is required to pay such fees or charges by the owner. reimbursement fees, or similar charges or exactions that are required as a means of financing public improvements or utilities unless Contractor is required to pay such fees or charges by the owner.

14. Cleanup: Subcontractor will continuously clean the job site, and Subcontractor's work areas will be maintained in an orderly and broom-clean condition at all times. Subcontractor will locate its materials and equipment so as to avoid interference with other trades. If Subcontractor fails to perform as required by this paragraph, Contractor may do so at Subcontractor's expense.

15. Compliance With Codes and Laws: In the performance of its work, Subcontractor will comply with all building codes, safety regulations, and all other laws, ordinances, and statutes that apply to the work.

16. Cutting and Patching: Subcontractor will cut, patch, and adjust its work so as to properly join with and fit the work of Contractor and other subcontractors.

17. Contractor's Right to do Subcontractor's Work: If Subcontractor fails to supply sufficient forces, equipment or materials to advance the work according to Contractor's schedule, then Contractor may use its own forces, equipment, or materials to supply such portions of the work as are necessary to increase the rate of progress, and Contractor shall deduct the expense, with reasonable overhead and profit, from the subcontract price.

18. Schedule: Time is of the essence of this agreement. Subcontractor shall provide Contractor with all scheduling information required by Contractor for Subcontractor's work. Subcontractor shall comply with Contractor's schedule. Subcontractor will commence work within 24 hours after notice to proceed from Contractor, and will prosecute the work with diligence and efficiency in strict accordance with the schedule, and will not delay or interfere with other portions of the work. Should Subcontractor fall behind schedule, Contractor may require Subcontractor to work overtime to catch up, and overtime shall be at Subcontractor's expense. If the Subcontractor's work is delayed without the fault of Subcontractor, then Contractor shall extend the time for Subcontractor's work to the extent that Owner extends Contractor's time for the work, and the schedule shall be revised accordingly.

19. Correction of the Work: Subcontractor will immediately after notification correct any defective work.

20. No Damages for Delay: If Subcontractor is obstructed or delayed in the performance of its work by acts of Contractor or Owner, Subcontractor shall be entitled to a reasonable extension of time, provided that, as a condition precedent to such an extension being granted, Subcontractor has provided Contractor with a written notice of the delay within ten days after the commencement of the delay. Such an extension of time shall be Subcontractor's exclusive remedy, and under no circumstances shall Subcontractor be entitled to monetary damages or other compensation for such obstruction or delay. Contractor shall not be liable to Subcontractor for damages or compensation for delays or interference caused by Contractor, Owner, or other subcontractors, and Subcontractor's exclusive remedy for such delay or interference shall be an extension of time for performance of Subcontractor's work.

21. Liquidated Damages: If the contract documents provide for liquidated or other damages for delay, and damages are assessed by Owner against Contractor, the Contractor may assess such damages against Subcontractor in proportion to Subcontractor's share of responsibility for delay. Contractor's assessment shall be final and binding so long as it is made in good faith.

22. Destruction or Damage of the Work: Subcontractor will carry its own insurance to protect it against destruction of, or damage to, the Subcontractor's work. Subcontractor will be responsible for its work until completion of the entire project and its acceptance by the Owner. Until that time, Subcontractor has the risk of damage or loss. In the event of damage to or destruction of the work, Subcontractor will rebuild its portion of the work without additional compensation, and will look to its own resources or insurance coverage to pay for such rebuilding. Subcontractor will promptly perform rebuilding without additional compensation regardless of the pendency of any claim by Subcontractor against any other party, including Contractor, that such party is liable for damage to or destruction of Subcontractor's work.

23. Indemnity: To the fullest extent allowed under the law, Subcontractor will indemnify and hold Contractor and Owner harmless from claims, demands, liabilities, judgments, liens, encumbrances, costs and expenses, of every nature, including attorney's fees, arising out of or in connection with the obligations of Subcontractor under this Subcontract, or the operations, actions and work conducted by Subcontractor or its agents, employees, and sub-subcontractors. Subcontractor will provide the defense of any such claims, and will employ counsel who is satisfactory to Contractor or Owner for that purpose. Contractor and Owner may defend such claims at Subcontractor's expense. Subcontractor shall not provide indemnity against claims, liability, loss, or expense, arising from the actual negligence or willful misconduct of anyone seeking to be indemnified under this provision. In the event any portion of this indemnity agreement conflicts with Civil Code sections 2872 et seq. or any other laws limiting this obligation, then the parties desire that this provision be modified consistent with the law by any court or arbitrator so as to give full force and effect to the desire of the parties that Subcontractor indemnify contractor to the fullest extent allowed under the law. Subcontractor shall incorporate this Indemnity Provision into any sub-subcontracts that Subcontractor may enter into for the Project and insure that its sub-subcontractors also agree to indemnify and defend Contractor and Owner, to the extent they are responsible in any legal way for the claims.

24. Inspection and Testing: Subcontractor will pay all fees incurred for inspection and testing of Subcontractor's work. Subcontractor will, at its own expense, make all portions of the work easily accessible to inspectors and testing agencies, and will, if necessary, at its own expense, remove any portions of the work that need to be removed in order to facilitate inspection and testing.

25. Insurance: Before Contractor makes any payment to Subcontractor under this Subcontract, and before Subcontractor performs any work on the project, Subcontractor will deliver to Contractor certificates of insurance, which name the Contractor and Owner as additional insureds, signed by hand, showing that Subcontractor has the coverage required by this paragraph.

(a) Liability Insurance: Comprehensive general liability insurance, with broad form coverage, which includes coverage for settlement, collapse, underground hazards, completed operations, products liability, and liability assumed by contract will be provided by Subcontractor. The certificate will provide that the insurance may not be cancelled or modified without 30 days prior written notice by the insurance carrier to Contractor. The certificate will name Contractor and the Owner as additional named insureds under the policy, and will provide that the coverage afforded by the policy is primary, and that any other insurance of Contractor covering the same risk or risks is excess and non-contributory. The insurance shall have a limit of not less than $1,000,000 for bodily injury and a limit of not less than $1,000,000 for property damage.

(b) Automobile Insurance: Subcontractor shall provide Contractor with a certificate showing that it has in force comprehensive automobile liability insurance covering all owned and non-owned vehicles with limits of not less than $1,000,000 for bodily injury and not less than $1,000,000 for property damage. The certificate of insurance for comprehensive automobile liability shall be in the same form as required above for comprehensive general liability.

(c) Workers' Compensation: Subcontractor shall supply to Contractor a certificate showing that Subcontractor is in compliance with state requirements for workers' compensation insurance. The certificate shall provide that the insurance may not be cancelled without 30 days prior notice to Contractor.

Joint Checks: If Contractor receives information, or has reason to believe, that Subcontractor has not paid for any work, equipment, or materials incorporated into the project, then Contractor reserves the right to make payments to Subcontractor in the form of checks payable jointly to Subcontractor and its workers, suppliers, or sub-subcontractors. By endorsing any such joint check, each worker, supplier, or sub-subcontractor endorser acknowledges that it has been paid the full face amount of the check for work performed on the project covered by this Subcontract.

Quality of the Work: All materials and equipment shall be as specified and all work shall be performed by Subcontractor in a first-class and workmanlike manner.

28. Right of Subcontractor to Stop Work: In the event of any disagreement between Contractor and Subcontractor as to the scope of the work, scheduling, equipment, materials, or any other disagreement, Subcontractor will not stop work or reduce progress, but will continue with the prompt and diligent prosecution of the work.

29. Suspension of Work: In the event that Owner or Contractor shall suspend the prosecution of the project, Subcontractor will promptly demobilize, and will hold itself in readiness to resume operations when ordered to do so by Contractor.

30. Risk of Loss: All equipment, materials, and completed and uncompleted work are at the risk of Subcontractor until the entire project has been completed and accepted by the Owner. Subcontractor will provide its own insurance covering such risk, and will not be excused from performance of this Subcontract by damage to or destruction of its equipment, materials, or partially or fully completed work.

31. Safety: Subcontractor will familiarize itself with Contractor's safety program, and will promptly comply with all safety instructions issued by Contractor. Subcontractor will strictly enforce safety requirements in its work force, and will hold tailgate safety meetings with all workers at least weekly.

32. Warranty: Subcontractor warrants its work and materials against defects. All work and materials will be as called for in the contract documents. If the contract between Contractor and Owner contains warranty provisions, Subcontractor will comply with those provisions at no expense to Owner or Contractor. If no warranty is provided in the contract between Contractor and Owner, then Subcontractor shall guarantee its work for one year after completion of the project, and, promptly upon notice from Owner or Contractor, shall repair defective work.

33. Construction of Captions: Captions of the Agreement and Terms and Conditions, of this agreement are for convenience and reference only. The words in the captions in no way explain, modify, amplify, or interpret this agreement.

Consult a lawyer if you doubt the form's fitness for your purpose and use.

SAMPLE

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