

CONTRACTOR'S COPY

SUBCONTRACT NO. _____

THIS AGREEMENT made this _____ day of _____, A.D. 20_____

BETWEEN

name _____
(hereinafter called the "Contractor")
address _____

AND

name _____
(hereinafter called the "Subcontractor")
address _____

WHEREAS THE CONTRACTOR has entered into an agreement (hereinafter called the "Prime Contract") dated the _____ day of _____, 20____, with

name _____ (hereinafter called the "Owner")

for the construction of _____
(hereinafter called the "Project")

under which _____
has been appointed as the Consultant (hereinafter called the "Consultant")

AND WHEREAS the Prime Contract includes the work to be performed under this Agreement (hereinafter called the "Subcontract");
AND WHEREAS the Subcontractor has agreed with the Contractor to construct, install and complete the portion(s) of the Project and supply the materials necessary therefore as hereinafter set forth;

NOW THEREFORE THIS SUBCONTRACT WITNESSETH AS FOLLOWS:

ARTICLE 1 - THE WORK

A. The Subcontractor shall supply all the labour, supervision, materials, tools, and equipment necessary to construct, install and complete the following portion(s) of the Project (hereinafter called the "Work"), at and for the subcontract price(s) (hereinafter called the "Subcontract Price"), namely:

all in a proper and workmanlike manner and in accordance with the requirements and on the terms and conditions of both the Prime Contract (including, without limitation, such documents as drawings, specifications, instructions to bidders, general and/or special conditions, and any addenda thereto issued before the date of Subcontractor's tender closing to the Contractor or as modified herein), and this Subcontract including the Subcontract Conditions, together with those Appendices, if any, listed hereafter forming part hereof (hereinafter called the "Contract Documents"):

B. The Subcontractor will begin work on or about the _____ day of _____, 20____, and will carry on and complete the Work on or before the _____ day of _____, 20____, (hereinafter called the "Subcontract Time") generally in accordance with the Schedule attached hereto or as otherwise provided for by the Prime Contract and the Subcontractor shall carry out its work in a manner which shall not delay the work of the Contractor or of other subcontractors on the Project. The order and schedule of the Work will be at the discretion of the Contractor in consultation with the Subcontractor.

C. The period of time in SC 18 shall be _____ days.

ARTICLE 2 - PAYMENT

The Contractor agrees, subject to such additions and deductions for changes as may be determined in accordance with the terms hereof, to pay the Subcontractor the sum of _____ and Federal and/or Provincial value-added and/or sales taxes in effect at the time of the Subcontractor's tender closing in Canadian Funds for the performance of this Subcontract as follows:

- A. Invoices (_____ copies) covering progress claims showing this Subcontract Number must be received by the Contractor located at _____ no later than _____ days before the end of the month in which materials were supplied or work performed. In the event invoices are received later than this, the Contractor may postpone payment to the month following that in which it would otherwise have been due, notwithstanding any other provision of this Subcontract.
- B. Payments shall be made monthly on progress estimates as approved by the Contractor covering _____ % of the value of the Work completed by the Subcontractor to the end of the previous month; such payments to be made _____ days after the Contractor receives payment for such Work from the Owner, but in no event shall payment be made later than 45 days after receipt of the Subcontractor's monthly progress estimate by the Contractor.
- C. Payment of the balance owing under this Subcontract shall be made within 10 days after payment has been received by the Contractor, or within a reasonable period of time after the Contractor's application for final payment under the Prime Contract, or termination of the Prime Contract, or stoppage of the Project, whichever is earlier.

This provision shall not relieve the Contractor from its obligation of payment to the Subcontractor in the event the Contractor does not receive the balance of the contract funds from the Owner within a reasonable period of time.

- D. If the Contractor fails to make any payments to the Subcontractor as such payments become due under the terms of this Subcontract, or under an award by arbitration or a Court, interest of _____ % per annum above the Prime Rate on such unpaid amounts shall also become due and payable until payment. Such interest shall be calculated and added to any unpaid amounts monthly. The Prime Rate shall be the rate of interest quoted by _____ (insert name of chartered lending institution whose prime rate is to be used) for prime business loans as it may change from time to time. Interest shall apply on the settlement amount of any claim in dispute that is resolved either pursuant to SC26 or otherwise, from the date the amount would have been due and payable under the Subcontract, had it not been in dispute, until the date it is paid.

ARTICLE 3 - AGREEMENT

All the documents as set forth in Article 1 A. form part of this Subcontract and the whole shall constitute the entire contract between the parties. This Subcontract shall enure to the benefit of and be binding upon the parties hereto, their respective successors, executors, administrators and permitted assigns.

ARTICLE 4 - ADDRESSES FOR NOTICES

Addresses for notices for the parties under this Subcontract are:

(Contractor's Address)

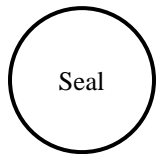
(Subcontractor's Address)

IN WITNESS WHEREOF the parties hereto have executed this Subcontract including Conditions following, the day and year first above written,

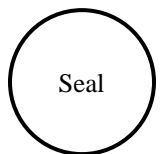
SIGNED, SEALED AND DELIVERED

in the presence of

Contractor
per: (Signature)
(Name and Title)



Subcontractor
per: (Signature)
(Name and Title)



Apply an ACA
Form A
CONTRACTOR
copyright seal here.

Use of this form without an ACA Form A copyright seal constitutes an infringement of copyright. Use of this form with an ACA Form A copyright seal demonstrates that it is intended by the parties to be an accurate and unamended version of ACA Form A Subcontract - 2013.

SUBCONTRACT CONDITIONS

SC 1 - PRECEDENCE

- 1.1 In the event of any discrepancy between the various documents constituting the Prime Contract and this Subcontract, the terms and conditions of this Subcontract shall prevail, except as may be otherwise noted in the Appendices, if any.

SC 2 - REGULATIONS, LAWS, ETC.

- 2.1 The law of the place of the Work shall govern this Subcontract.

SC 3 - PERMITS, LICENSES AND CERTIFICATES

- 3.1 Unless otherwise stipulated the Contractor shall obtain and pay for the building permit. The Subcontractor shall obtain and pay for all permits, licenses and certificates relative to the Work under this Subcontract.

SC 4 - INSTRUCTIONS AND DECISIONS

- 4.1 The Subcontractor shall carry out the instructions of the Contractor relative to the Work. The Contractor shall determine all matters pertaining to this Subcontract and direct the Subcontractor accordingly. Should the Subcontractor hold such instructions to be at variance with this Subcontract or to involve changes in the Work already built, fixed, ordered or on hand or to be given in error, the Subcontractor shall notify the Contractor in writing before proceeding to carry them out. If the Contractor and the Subcontractor fail to reach agreement with respect to any such instruction and the Contractor decides to have such instruction carried out, the Subcontractor shall comply with such instruction without delay. Any unresolved questions of difference of cost resulting from any such instruction shall be decided in the manner provided by SC 26 hereof.
- 4.2 Whenever by the terms of this Subcontract any matter is to be decided, stipulated, requested or required by the Contractor or to be done to the approval or satisfaction or at the discretion or with the authority or according to the opinion of the Contractor or acceptable or satisfactory to the Contractor or otherwise to be subject to singular or discretionary determination by the Contractor, the Contractor shall act reasonably and in a timely manner and if the Contractor's approval or consent is required pursuant to any provision of this Subcontract such approval or consent shall not be unreasonably withheld.

SC 5 - CHANGES TO THE WORK

- 5.1 The Contractor, without invalidating this Subcontract, may make changes by altering, adding to, or deducting from the Work and the Subcontract Price and Subcontract Time shall be adjusted accordingly. No changes shall be made without a written order from the Contractor and, subject to the provisions of SC 26 hereof, no claim for an addition or deduction to the Subcontract Price or change in the Subcontract Time shall be valid unless so authorized and at the same time valued or agreed to be valued at a price satisfactory to the Contractor and the Subcontractor.

SC 6 - SHOP DRAWINGS

- 6.1 The Contractor shall determine the number of copies of shop drawings as may reasonably be required together with the procedure and schedule for the transfer of them, and the Subcontractor shall prepare and supply such shop drawings in compliance with the Prime Contract.

SC 7 - RECORD DRAWINGS, MAINTENANCE MANUALS, ETC.

- 7.1 The Subcontractor shall supply all record drawings, maintenance manuals, instructions, brochures, guarantees, warranties, certificates, and other similar documents, as required of it by the Contract Documents in a manner and at a time stipulated by the Contractor but in any event not later than the Subcontractor's final progress estimate or 2 weeks before the Consultant's final inspection, whichever is earlier.

SC 8 - TRIAL ASSEMBLIES AND SAMPLES

- 8.1 The Subcontractor shall furnish the Contractor such mock-ups, trial assemblies and samples, as are required by the Contract Documents at such times and in the manner requested by the Contractor.

SC 9 - TESTS AND DESIGNS

- 9.1 The Subcontractor shall furnish the Contractor with any tests and designs related to the Work as may be required by the Contractor in addition to tests and designs called for in the Contract Documents. If the Work to which such tests and designs is related is found to be in accordance with the Contract Documents, the Contractor shall pay the cost of re-examination, testing, designs and replacements.

SC 10 - SUPERVISION AND WORKERS

- 10.1 The Subcontractor shall keep on the Project, at all times during the course of the Work, an experienced, designated responsible person and any necessary assistants, all of whom shall be satisfactory to the Contractor. This person shall not be changed except with the consent of the Contractor, unless such person proves to be unsatisfactory to the Subcontractor or ceases to be in the Subcontractor's employ. This person shall represent the Subcontractor and directions on minor matters given to the person shall be held to be given to the Subcontractor. Important directions shall be given in writing to the Subcontractor. The Subcontractor shall provide efficient supervision to the Work, using its best skill and attention. The Subcontractor shall not employ on the Work any unfit person or anyone not skilled in the work assigned to them.

SC 11 - EMERGENCIES

- 11.1 The Contractor has authority in an emergency to stop the progress of the Work whenever, in the Contractor's opinion, such stoppage may be necessary to ensure the safety of life, or any part of the Project, or neighbouring property. The Contractor has the authority to make changes and to order, assess and award the costs of work extra to the Subcontract or otherwise as may, in the Contractor's opinion, be necessary to ensure such safety.

SC 12 - PROTECTION OF THE WORK AND PROPERTY

- 12.1 The Subcontractor shall be responsible for the protection of its own Work and shall take all reasonable precautions to protect the Work and property of others during the performance of the Work.

SC 13 - WARRANTY

- 13.1 Subcontractor warrants the Work in accordance with the Contract Documents. No payment to the Subcontractor and no partial or entire occupancy of the Work by the Owner shall be construed as an acceptance of any Work or material not in accordance with this Subcontract. The Subcontractor shall promptly remove from the Project any defective Work, whether the result of poor workmanship, use of defective materials, damage through carelessness or other act or omission of the Subcontractor, which has been condemned by the Contractor as failing to conform to the Contract Documents, whether incorporated into the Work or not. The Subcontractor shall promptly replace and re-execute such defective or condemned Work. The Subcontractor agrees to pay for damage resulting from corrections made under this requirement.

SC 14 - HOUSEKEEPING

- 14.1 During construction, the Subcontractor shall at all times remove and keep removed from the site all debris resulting from its operations, and upon completion of the Work shall remove all temporary structures belonging to the Subcontractor, and shall leave the worksite in a neat and tidy condition.

SC 15 - BONDING

- 15.1 Notwithstanding the terms and conditions of the instructions to bidders, the Subcontractor, if required by the Contractor, must produce bonds with a Surety in a form acceptable to the Contractor and must maintain same in good standing until completion of this Subcontract, provided however, that any such requirement must be requested by the Contractor within 15 days of the execution of this Subcontract. The cost of a Labour and Material Payment bond and/or Performance bond shall be borne by the Subcontractor if called for at the time of tendering, but otherwise the cost shall be borne by the Contractor. Any demonstrable costs associated with a change of the Surety company at the instruction of the Contractor shall be borne by the Contractor.

SC 16 - INSURANCE AND WORKERS COMPENSATION

- 16.1 Except as otherwise specified, the Subcontractor shall provide, maintain and pay for:
- (a) general liability insurance,
 - (b) automobile liability insurance,
 - (c) where applicable, aircraft and watercraft liability insurance, and
 - (d) contractor's equipment insurance,
- in compliance with CCDC 41 - CCDC INSURANCE REQUIREMENTS (read "Contractor" as "Subcontractor" and "Owner" as "Contractor") or, if the Contractor must provide greater limits and coverages under the Prime Contract than specified in CCDC 41, not less than such greater limits and coverages.
- 16.2 If the Contractor or the Owner provide a wrap-up general liability policy that includes the Subcontractor as a named or additional insured, and provided the policy waives subrogation and cross-claim against the Subcontractor, the Subcontractor need not provide its own general liability insurance as specified in SC 16.1(a), but if the Subcontractor chooses to provide its own insurance, such insurance shall be excess to the wrap-up liability policy and not primary.
- 16.3 Prior to commencement of the Subcontract Work and upon placement, renewal, amendment, or extension of all or any part of the insurance, the Subcontractor shall promptly provide the Contractor with confirmation of coverage and, if requested, a certified true copy of the policies.
- 16.4 The Contractor shall provide, maintain and pay for "broad form" property insurance and, where such risks exist, boiler and machinery insurance with limits and coverages not less than those specified in CCDC 41 - CCDC INSURANCE REQUIREMENTS, unless such insurance is provided by the Owner. Such policies shall include the Subcontractor as insured and waive subrogation and cross-claim against the Subcontractor.
- 16.5 Where the Subcontractor is insured under a policy provided by the Contractor or the Owner, upon request the Subcontractor shall be provided with confirmation of coverage and, if requested, a certified true copy of the policies.
- 16.6 The Subcontractor shall at all material times comply with the applicable Workers compensation legislation and, if requested by the Contractor, immediately provide documentation confirming such compliance.

SC 17 - HOLD HARMLESS

- 17.1 The Contractor and the Subcontractor shall each indemnify and hold harmless the other from and against all claims, demands, losses, costs, damages, actions, suits or proceedings whether in respect to losses suffered by them, or in respect to claims by third parties, that arise out of, or are attributable in any respect to their involvement as parties to this Subcontract, provided such claims are:
- .1 caused by:
 - (a) the negligent acts or omissions of the party from whom indemnification is sought or anyone for whose acts or omissions that party is liable, or
 - (b) a failure of the party to the Subcontract from whom indemnification is sought to fulfil its terms or conditions;and
 - .2 made in writing within a period of 6 years from the date of Substantial Performance of the Work, as set out in the certificate of Substantial Performance of the Work, or within such shorter period as may be prescribed by any limitation statute of the province or territory of the Place of the Work. The parties expressly waive the right to indemnify for claims other than those provided for in this Subcontract.
- 17.2 The obligation of either party to indemnify as set forth in SC 17.1 shall be limited as follows:
- .1 In respect of losses suffered by the Contractor and the Subcontractor for which insurance is to be provided by either party pursuant to SC16, the general liability insurance limit for one occurrence as referred to in CCDC 41 – CCDC INSURANCE REQUIREMENTS in effect at the time of bid closing.
 - .2 In respect to losses suffered by the Contractor and the Subcontractor for which insurance is not required to be provided by either party in accordance with SC 16, the greater of the Prime Contract price or \$2,000,000, but in no event shall the sum be greater than \$20,000,000.
 - .3 In respect to claims by third parties for direct loss resulting from bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, the obligation to indemnify is without limit. In respect to all other claims for indemnity as a result of claims advanced by third parties, the limits of indemnity set forth in SC 17.2.1 and SC 17.2.2 shall apply.
- 17.3 The obligation of either party to indemnify the other as set forth in SC 17.1 and SC 17.2 shall be inclusive of interest and all legal costs.
- 17.4 In respect to any claim for indemnity or to be held harmless by the Contractor or the Subcontractor:
- .1 written notice of such claim shall be given within a reasonable time after the facts upon which such claim is based became known;
 - .2 should any party be required as a result of its obligation to indemnify another to pay or satisfy a final order, judgment or award made against the party entitled by this contract to be indemnified, then the indemnifying party upon assuming all liability for any costs that might result shall have the right to appeal in the name of the party against whom such final order or judgment has been made until such rights of appeal have been exhausted.

SC 18 - CONTRACTOR'S RIGHT TO DO WORK OF THE SUBCONTRACTOR OR TERMINATE THE SUBCONTRACT

- 18.1 If the Subcontractor should neglect to prosecute the Work properly or fail to perform any provisions contained in the Contract Documents, the Contractor may give the Subcontractor written notice specifying such default and if such default shall continue for the period of time specified in Article 1C. hereof the Contractor, without prejudice to any other right or remedy it may have, may make good such deficiencies and deduct the cost thereof from the payment otherwise due to the Subcontractor or may terminate this Subcontract, and may, for the purpose of completing the Work, take possession of all materials, tools and equipment, upon the premises, and may either complete this Subcontract itself or employ any other person, firm or corporation to do so, charging all costs incurred to the Subcontractor.
- 18.2 If the Subcontractor should be adjudged bankrupt, or if a judgement is made and is not satisfied, or makes a general assignment for the benefit of creditors or if a receiver is appointed on account of the Subcontractor's insolvency, the Contractor may, without prejudice to any other right of remedy it may have, by giving to the Subcontractor or receiver or trustee in bankruptcy written notice, take over the Work of the Subcontractor, or terminate the Subcontract. In completing the Work of the Subcontractor, the Contractor shall be entitled to recover all costs incurred as a result of completion of the Subcontract including any replacement contractors, labour, equipment, materials, interest, legal expenses and any other costs associated with or resulting from completing the Work of the Subcontract.

SC 19 - SUBCONTRACTOR'S RIGHT TO STOP WORK OR SUSPEND OR TERMINATE THE SUBCONTRACT

- 19.1 If the Contractor should be adjudged bankrupt, or makes a general assignment for the benefit of creditors because of its insolvency or if a receiver is appointed because of the Contractor's insolvency, the Subcontractor may, without prejudice to any other right or remedy it may have, by giving the Contractor or receiver in bankruptcy written notice, terminate the Subcontract.

- 19.2 If the Work should be stopped or otherwise delayed for a period of 30 days or more under an order of any Court, or other public authority, and providing that such order was not issued as the result of any act or fault of the Subcontractor or of anyone directly or indirectly employed by it, the Subcontractor may, without prejudice to any other right or remedy it may have, by giving the Contractor written notice, terminate the Subcontract.
- 19.3 The Subcontractor may notify the Contractor in writing that the Contractor is in default of its contractual obligations if the Contractor should fail to pay the Subcontractor in accordance with the time for payment stated in Article 2 of this Subcontract, or if the Contractor should be in substantial default of any of its other obligations under this Subcontract. Such written notice shall advise the Contractor that if such default is not corrected within 5 working days from the receipt of the written notice the Subcontractor may, without prejudice to any other right or remedy it may have, stop work and/or terminate the Subcontract.
- 19.4 If the Subcontractor terminates the Subcontract under the conditions set out above, the Subcontractor shall without prejudice to any other right or remedy it may have, be entitled to be paid for all Work performed and for any loss sustained with respect to products and construction machinery and equipment, with reasonable profit, damages and legal expenses.
- 19.5 If the Prime Contract is terminated for any reason, either the Contractor or Subcontractor may terminate this Subcontract upon written notice to the other. Thereafter the respective rights of the parties shall be as if the Subcontractor had terminated the Subcontract under any of the above conditions.

SC 20 - PROJECT MATERIALS AND EQUIPMENT

- 20.1 The Subcontractor shall not remove any materials or equipment brought on to the Project for incorporation into the Work without written authority of the Contractor.

SC 21 - ASSIGNMENT

- 21.1 Neither party to this Subcontract shall assign the Work or any part thereof without written consent of the other. The Subcontractor will not assign payments under this Agreement without the written consent of the Contractor, provided always, however, that the Subcontractor by reason of this provision will not be precluded from assigning or pledging the benefits of this Subcontract in the normal course of business.

SC 22 - SUB-CONTRACTORS

- 22.1 The Subcontractor agrees that the list of names of sub-subcontractors to be supplied prior to the signing of this Subcontract is the list of sub-subcontractors to be used to carry out those portions of the Work noted therein and the Subcontractor shall not employ any sub-subcontractor to whom the Contractor may reasonably object. If the change of any name on such list is required by the Contractor and the Work has to be awarded to a higher bidder, the amounts payable hereunder shall be increased by the difference payable as a result of the difference between the two bids. No such subcontracting by the Subcontractor will relieve the Subcontractor from any obligations under this Subcontract. The Subcontractor agrees that it shall incorporate the terms and conditions of the Contract Documents into all agreements it enters into with any such sub-subcontractors. The Subcontractor shall not be required to employ as a Sub-subcontractor, a person or firm to which the Subcontractor may reasonably object.

SC 23 - STATUTORY DECLARATION

- 23.1 Before payment of any amount payable pursuant to Article 2 hereof is made, the Subcontractor must execute and submit a Statutory Declaration, to the Contractor or such other form as may be acceptable to the Contractor.

SC 24 - PAYMENT OF BILLS

- 24.1 The Subcontractor shall promptly and satisfactorily settle and pay for all accounts, claims or liens with respect to the Work. If, after having received 2 working days written notice from the Contractor to settle and pay such accounts, claims or liens, the Subcontractor fails or refuses to settle or pay same, the Contractor shall have the right to settle or pay such accounts, claims and/or liens for the account of the Subcontractor and the receipt issued to the Contractor with respect to such accounts, claims or liens shall be conclusive evidence as to such payments and the amount thereof. Notwithstanding the foregoing provision, the Subcontractor shall not be required to pay any such accounts, claims or liens if it has reasonable grounds for disputing same and the Contractor in these circumstances will only have the right to pay or settle such accounts, claims or liens in such manner as in its opinion, will not prejudice the Subcontractor's right to dispute same.

SC 25 - PARTIAL OCCUPANCY

- 25.1 Should the Owner request partial occupancy, the Subcontractor shall prepare the portion of the Work necessary for such partial occupancy. The Contractor shall endeavour to make arrangements with the Owner to accept those portions to be used and to start any warranty from the date of this acceptance.

SC 26 - DISPUTES

- 26.1 In the case of any dispute arising between the Contractor and the Subcontractor as to their respective rights and obligations under the Subcontract shall be resolved, in the first instance, by amicable negotiations, failing which either party hereto shall be entitled to give the other written notice of such dispute. In such case, the parties shall engage in mediated negotiations in accordance with the provisions of the latest edition of the Rules for Mediation contained in CCDC 40 - Rules for Mediation and Arbitration of Construction. Failing resolution of such dispute by mediation, either party may, no later than 10 working days after the date of termination of the mediated negotiations, refer the dispute to be finally resolved by arbitration in accordance with the provisions of the latest edition of the Rules for Arbitration contained in CCDC 40 – Rules for Mediation and Arbitration of Construction Disputes.
- 26.2 Arbitration proceedings or legal proceedings shall not take place until after the performance or alleged performance of the dispute Work, except:
- (a) when the dispute concerns a progress payment;
 - (b) where either party can show that the matter in dispute requires immediate consideration while evidence is available;
 - (c) in the case of legal proceedings, where the action may become prescribed by reason of delay.
- 26.3 If, during the continuation of a dispute, the Contractor deems continuation of the Work of the Subcontractor to be necessary under the terms of the Prime Contract, the Contractor may order the Subcontractor to continue such Work under protest. Continuation of any Work under protest, either by written direction of the Contractor, or by written notice of the Subcontractor that such Work is being performed under protest, shall not prejudice any right or remedy of the Subcontractor to receive fair and reasonable payment for the Work done under protest or for materials furnished or equipment provided to execute such Work done under protest.
- 26.4 Should any dispute arise between the Contractor and Subcontractor in any way pertaining to this Subcontract that is related to a dispute between the Owner and the Contractor, such dispute shall be disposed of in the same manner, by the same Arbitrator or Arbitration panel, at the same time, and in the same hearing as the dispute is to be disposed of as agreed between the Owner and the Contractor.

SC 27 - SAFETY

- 27.1 The Subcontractor agrees to respect and comply with all applicable safety legislation and comply with all safety procedures on the Project as provided by the Project's Prime Contractor and set forth in the Appendices, if any, attached hereto.

SC 28 - ROYALTIES AND PATENTS

- 28.1 The Subcontractor shall indemnify the Contractor and the Owner against all actions, claims of proceedings for infringement of any patent rights and for royalties or other payments which may be payable in connection with any such patent rights in carrying out the Subcontract.