

# SUBCONTRACTOR AGREEMENT

This Master Subcontractor Agreement (this “**Agreement**” or this “**Subcontractor Agreement**”), is entered into and made effective as of [DATE] (the “**Effective Date**”), by and between:

[Contractor Company], a [State of Incorporation] corporation, with offices located at [Company.Address] (“**Prime Contractor**” or “**Prime**”), and

[Subcontractor Company], a [State of Incorporation] corporation, with offices located at [Company.Address] (“**Subcontractor**”).

## WHEREAS:

1. Prime has existing or prospective customer contracts for which Prime may require support; and
2. Subcontractor has been identified by Prime as a potential subcontractor as it has certain expertise and capabilities which may be required under such contracts; and
3. The parties wish to set forth the terms and conditions upon which any Subcontractor support may be provided to Prime;

**NOW THEREFORE**, in consideration of the foregoing, and of the mutual covenants and agreements set forth herein, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

## 1. DEFINITIONS.

The following capitalized terms will have the following definitions under this Agreement:

1. “Contract” means Prime’s contract with the Customer for which the Subcontractor may provide support pursuant to Task Orders issued under this Agreement.
2. “Customer(s)” means customers of Prime for whom Services or Deliverables are to be performed under a Task Order.
3. “Deliverables” means those items, products and materials to be provided to Prime by Subcontractor, as specified on a Task Order.

4. "Firm Fixed Price (FFP)" means an agreed upon fixed price for the Services and Deliverables to be provided pursuant to a Task Order.
5. "Intellectual Property Rights" means world-wide, common-law and statutory rights associated with (i) patentable inventions, patents and patent applications, divisions, continuations, renewals, reissuance and extensions, thereof, (ii) copyrights, copyright applications and copyright registrations, "moral" rights and mask work rights, (iii) the protection of trade and industrial secrets and confidential information, and (iv) trademarks, trade names, service marks, and logos (collectively "Trademarks").
6. "Open Source" means any software having license terms that require, as a condition of use, modification, or distribution of the software that such software or other software combined or distributed with such software be (i) disclosed or distributed in source code form, (ii) licensed for the purpose of making derivative works, and (iii) redistributable at no charge.
7. "Other Direct Costs" means costs normally incurred in the operation of a business, such as postage, telephone and internet charges, office supplies and overhead.
8. "Party or Parties" means the signatories to this Agreement when referred to, respectively, individually or collectively.
9. "Pre-Existing Intellectual Property" means any Intellectual Property that has been conceived or developed by either party or any third party before Subcontractor renders any services under this Agreement or any Task Order or that is conceived or developed at any time wholly independently of the Services and Deliverables.
10. "Services" means all work performed by Subcontractor under this Agreement pursuant to a Task Order, as well as materials used by Subcontractor in performing its obligations under a Task Order.
11. "Task Order" means a written document executed by the Parties authorizing Subcontractor to perform Services and/or provide Deliverables in accordance with such Task Order. For clarity, any contract for services entered into through an online freelance or similar website shall be construed as a Task Order under the terms of this Agreement.

12. "Time and Materials (T&M)" means Services performed at an hourly rate wherein the actual cost of hours worked and materials used in the performance of the Services are charged to Prime. Equipment and other depreciable assets are not to be charged.

## **2. WORK AUTHORIZATION.**

Prime shall have no obligation to award any work or Task Order under this Agreement. However, should any work be awarded to the Subcontractor, the parties agree that such work will be subject to the terms and conditions of this Agreement. The Subcontractor shall, in accordance with Task Orders issued by Prime and agreed to by Subcontractor, perform work assignments to provide expert Services, advice, and/or Deliverables. A Task Order shall be considered in effect and duly authorized only upon written agreement of both parties.

## **3. TASK ORDERS.**

Each Task Order shall provide, at a minimum, the following data:

1. Statement of Work or Description of Services and Deliverables
2. Deliverables and Schedules
3. Period of Performance or Duration of the Services
4. Hourly Rate(s) (if T&M)
5. Estimated Travel (if applicable, and not included in the FFP)
6. Price (per Deliverable and/or milestone if FFP)

All Task Orders incorporate the terms and conditions of this Subcontract, whether stated explicitly or not. In the event of conflict or inconsistency between a Task Order and this Agreement, the terms and conditions of this Agreement shall take precedence, unless specifically stated otherwise in the Task Order.

## **4. TERM.**

Unless otherwise terminated as provided herein, the term of this Subcontractor Agreement shall start on the Effective Date and on [END DATE] thereafter. Should a Task Order be authorized during the term of this Agreement, which provides for completion subsequent to the end date of this Agreement, then the Task Order shall be additionally construed as a written modification of this Agreement, which extends the end date of this Agreement to coincide with the Task Order completion date.

## 5. COMPENSATION.

1. Labor. Prime shall compensate the Subcontractor in accordance with the applicable Task Order. All T&M work will be paid for at the applicable hourly rate(s) specified in the Task Order irrespective of the number of hours per week actually worked by the Subcontractor. Unless otherwise specifically agreed to in advance by Prime, Contractor is solely responsible for the payment of any overtime compensation to its employees and will not seek any such compensation from Prime. By execution hereof, Subcontractor certifies that the rates charged by Subcontractor do not exceed the lowest rate charged to others for services of the same nature as are to be provided under this Agreement.
2. Travel. Travel is not anticipated under any Task Order. Should travel be necessary, all travel must be pre-approved by Prime. Prime will not reimburse Subcontractor for any expenses related to travel that were not pre-approved by Prime in writing. If any travel is approved by Prime, Prime will reimburse the Subcontractor on an actual cost basis, without any markup or handling fees, for reasonable and substantiated expenses necessarily incurred by Subcontractor in performance of the work under a Task Order. Hours expended for travel time are not reimbursable and shall not be billed unless otherwise expressly approved by Prime.
3. Other Direct Costs. Subcontractor is not authorized to incur any Other Direct Costs and Prime will not reimburse Subcontractor for any Other Direct Costs, including but not limited to, telephone calls, books, office supplies, postage, and shipping. If Other Direct Costs are specifically identified as reimbursable, in writing, in a Task Order, Prime will reimburse Subcontractor accordingly. Any such Other Direct Costs will be invoiced to Prime at actual cost, without any markup or handling fees.
4. Taxes. Prime will pay or reimburse the Subcontractor for value added tax, GST, HST, sales and use or any similar transaction taxes imposed on the Services and/or Deliverables sold to Prime under a Task Order provided such taxes are statutorily imposed either jointly or severally on Prime. Prime shall not pay or reimburse the Subcontractor for any taxes which are statutorily imposed on the Subcontractor, including but not limited to taxes imposed on the Subcontractor's net or gross income, capital, net worth, property, or any employment related taxes on the Subcontractor or the Subcontractor's employees, agents or subcontractors. If Prime is required by law to make any deduction or to withhold from any

sum payable hereunder, then the sum payable by Prime shall be paid to the Subcontractor net of such legally required deduction or withholding. Any such taxes will be itemized separately in the Subcontractor's invoices.

## **6. INVOICING & PAYMENT TERMS.**

1. Invoicing Instructions. Subcontractor shall submit a separate invoice for each Task Order, in accordance with the instructions contained in the applicable Task Order.
2. Invoice Approval. Invoices shall be approved only if charges are in accordance with a duly authorized Task Order, the Subcontractor is performing the Services in accordance with Task Order requirements, Deliverables specified are delivered according to schedule and are of an acceptable quality, and, if the Task Order is T&M, the charges are reasonable for work performed.
3. Payment Terms. Prime shall pay Subcontractor within [NUMBER OF DAYS TO PROVIDE INVOICE] days after a valid and approved invoice is received by Prime.

## **7. SET-OFF.**

Prime shall have the right at any time to set-off any amounts now or hereafter owing by Subcontractor to Prime under any Task Order or otherwise, against amounts which are then or may thereafter become due or payable to Subcontractor under this Agreement.

## **8. CHANGES.**

Upon notice to Subcontractor, Prime may change any requirement in a Task order relating to undelivered Services and/or Deliverables. If such change reasonably affects the price or schedule, the Subcontractor will notify Prime within [NUMBER OF DAYS TO NOTIFY] business days of such, and the parties will negotiate an equitable adjustment in the fees, charges and/or schedule and make appropriate amendments to the applicable Task Order. Prime shall have no obligation to the Subcontractor for any changes to a Task Order that were not authorized in writing by Prime.

## **9. CUSTOMER INTERACTIONS.**

1. Customer Contact. During period of performance of a Task Order, the Subcontractor may have direct communication with the Customer, limited solely to those communications necessary to affect provision of Services and/or Deliverables.
2. New and Follow-On Business. If while delivering Services the Subcontractor becomes aware of the existence of potential follow-on work or additional opportunities specifically related to the Services, the Subcontractor will disclose such information to Prime.

## **10. EXCLUSIVITY.**

Subcontractor understands that by signing this Agreement, it is appointing Prime as an exclusive representative with respect to Customers to whom Subcontractor is introduced and/or to whom Subcontractor is assigned by Prime, as to the subject matter of Prime's retention of Subcontractor hereunder. Subcontractor agrees that the relationship between Subcontractor and any such Customers, for purposes of this Agreement and whether or not this Agreement or any Task Orders hereunder is/are terminated, begins upon the initial disclosure of a potential assignment to Subcontractor by Prime. During the term of this Agreement and for [NUMBER OF MONTHS] months following termination of this Agreement, Subcontractor shall not, directly or indirectly, either as an organization, as an individual, as an employee or member of a partnership, or as an employee, officer, director or stockholder of any corporation, or in any other capacity, solicit or accept, or advise anyone else to solicit or accept, any business that competes directly with Prime from any such Customers, or from the personnel of any Customers to whom Subcontractor was introduced pursuant to this Agreement. In addition, Subcontractor shall not directly or indirectly use or make available to any person, firm, or corporation the knowledge of the business of Prime gained by Subcontractor during the term of this Agreement.

## **11. INTELLECTUAL PROPERTY RIGHTS.**

1. Retained Rights. Each party will retain all right, title, and interest in and to its own Pre-Existing Intellectual Property irrespective of any disclosure of such Pre-Existing Intellectual Property to the other party, subject to any licenses granted herein.

2. Pre-Existing Intellectual Property. Subcontractor will not use any Subcontractor or third party Pre-Existing Intellectual Property in connection with this Agreement unless Subcontractor has the right to use it for Prime or the Customer's benefit. If Subcontractor is not the owner of such Pre-Existing Intellectual Property, Subcontractor will obtain from the owner any rights as are necessary to enable Subcontractor to comply with this Agreement.
3. Subcontractor grants Prime a non-exclusive, royalty-free, worldwide, perpetual and irrevocable license in Subcontractor and third party Pre-Existing Intellectual Property, to the extent such Pre-Existing Intellectual Property is incorporated into any Deliverable, with the license including the right to make, have made, sell, use, reproduce, modify, adapt, display, distribute, make other versions of and disclose the property and to sublicense others to do these things.
4. Subcontractor will not incorporate any materials from a third party, including Open Source or freeware, into any Deliverable unless (i) Subcontractor clearly identifies the specific elements of the Deliverable to contain third party materials in the applicable Task Order, (ii) Subcontractor identifies the corresponding third party licenses and any restrictions on use thereof in the applicable Task Order, and (ii) approval is given by Prime as evidenced by a signed Task Order (or other written and fully executed agreement). Subcontractor represents, warrants and covenants that Subcontractor has complied and shall continue to comply with all third party licenses (including all open source licenses) associated with any software components that will be included in the Deliverables or any other materials supplied by Subcontractor. Subcontractor shall indemnify Prime against any losses and liability incurred by Prime and any Customer due to failure of Subcontractor to meet any of the requirements in any of the third party licenses.
5. Ownership of Deliverables. Subject to Subcontractor and third party rights in Pre-Existing Intellectual Property, all Deliverables, whether complete or in progress, and all Intellectual Property Rights related thereto shall belong to Prime, and Subcontractor hereby assigns such rights to Prime. Subcontractor agrees that Prime will own all patents, inventor's certificates, utility models or other rights, copyrights or trade secrets covering the Deliverables and will have full rights to use the Deliverables without claim on the part of Subcontractor for additional compensation and without challenge, opposition or interference by Subcontractor and Subcontractor will, and will cause each of its Personnel to, waive their respective moral rights therein. Subcontractor will sign any necessary

documents and will otherwise assist Prime in securing, maintaining and defending copyrights or other rights to protect the Deliverables in any country. Subcontractor, its agents, employees, and Subcontractors will deliver the Deliverables to Prime in accordance with the schedule included in a Task Order.

6. No Rights to Prime Intellectual Property. Except for the limited license to use materials provided by Prime as may be necessary in order for Subcontractor to perform Services under this Agreement, Subcontractor is granted no right, title, or interest in any Prime Intellectual Property.

## **12. CONFIDENTIALITY.**

1. Confidential Information. For purposes of this Agreement, "Confidential Information" shall mean information or material proprietary to a Party or designated as confidential by such Party (the "Disclosing Party") and all information provided by a Customer, as well as information about which a Party (the "Receiving Party") obtains knowledge or access, through or as a result of this Agreement (including information conceived, originated, discovered or developed in whole or in part by Subcontractor pursuant to a Task Order). Confidential Information does not include: a) information that is or becomes publicly known without restriction and without breach of this Agreement or that is generally employed by the trade at or after the time the Receiving Party first learns of such information; b) generic information or knowledge which the Receiving Party would have learned in the course of similar employment or work elsewhere in the trade; c) information the Receiving Party lawfully receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation; d) information the Receiving Party rightfully knew prior to receiving such information from the Disclosing Party to the extent such knowledge was not subject to restrictions on further disclosure; or (e) information the Receiving Party develops independent of any information originating from the Disclosing Party.
2. Prime Confidential Information. The following constitute Confidential Information of Prime and should not be disclosed to third parties: the Deliverables, discoveries, ideas, concepts, software in various states of development, designs, drawings, specifications, techniques, models, data, source code, source files and documentation, object code, documentation, diagrams, flow charts, research, development, processes, procedures, "know-how", marketing techniques and materials, marketing and development plans, customer names and other information related to customers, price lists, pricing policies and financial information,



this Agreement and the existence of this Agreement, the relationship between Prime and a Customer, and any Task Order issued under this Agreement. Subcontractor will not use Prime or Customer names, likenesses, or logos (Prime or Customer "Identity"). Subcontractor will not use or reference Prime or Customer Identity, directly or indirectly, in conjunction with any other clients or potential clients, any client lists, advertisements, news releases or releases to any professional or trade publications.

3. Non-Disclosure. The Parties hereby agree that during the term hereof and at all times thereafter, and except as specifically permitted herein or in a separate writing signed by the Disclosing Party, the Receiving Party shall not use, commercialize or disclose Confidential Information to any person or entity. Upon termination, or at any time upon the request of the Disclosing Party, the Receiving Party shall return to the Disclosing Party all Confidential Information, including all notes, data, reference materials, sketches, drawings, memorandums, documentations and records which in any way incorporate Confidential Information.
4. Right to Disclose. With respect to any information, knowledge, or data disclosed to Prime by the Subcontractor, the Subcontractor warrants that the Subcontractor has full and unrestricted right to disclose the same without incurring legal liability to others, and that Prime shall have full and unrestricted right to use and publish the same as it may see fit. Any restrictions on Prime's use of any information, knowledge, or data disclosed by Subcontractor must be made known to Prime as soon as practicable and in any event agreed upon before execution of a Task Order.

### **13. CONFLICT OF INTEREST.**

Subcontractor represents that its execution and performance of this Agreement does not conflict with or breach any contractual, fiduciary or other duty or obligation to which Subcontractor is bound. Subcontractor shall not accept any Task Order from Prime or work from any other business organizations or entities which would create an actual or potential conflict of interest for the Subcontractor or which is detrimental to Prime's business interests.

### **14. TERMINATION.**

1. Prime may terminate this Agreement and/or an individual Task Order for its convenience,

without liability at any time, upon prior written notice to Subcontractor.

2. Subcontractor may terminate this Agreement upon thirty days prior written notice provided there are no open Task Orders at the time notice is given.
3. Prime may terminate this Agreement and/or any open Task Orders immediately for cause if the Subcontractor fails to perform any of its obligations under this Agreement or any Task Order issued hereunder or if Subcontractor breaches any of the warranties provided herein and fails to correct such failure or breach to Prime's reasonable satisfaction within ten (10) calendar days (unless extended by Prime) following notice by Prime. Prime shall be entitled to seek and obtain all remedies available to it in law or in equity.
4. Upon termination of any Task Order issued hereunder, Subcontractor will immediately provide Prime with any and all work in progress or completed prior to the termination date. As Prime's sole obligation to Subcontractor resulting from such termination, Prime will pay Subcontractor an equitable amount as determined by Prime for the partially completed work in progress and the agreed to price for the completed Services and/or Deliverables provided and accepted prior to the date of termination.
5. Upon termination or expiration of this Agreement or a Task Order issued hereunder, whichever occurs first, Subcontractor shall promptly return to Prime all materials and or tools provided by Prime or Customer under this Agreement and all Confidential Information provided by Prime or Customer to Subcontractor.
6. Any provision of this Agreement that, by its language or context implies its survival, shall survive any termination or expiration of this Agreement.

## **15. SUBCONTRACTING.**

Subcontractor may not subcontract, either in whole or in part, Services authorized by a Task Order without prior written consent of Prime. If Prime Contracts consents to subcontracting of any portion of the work to be performed under a Task Order, the Subcontractor must first obtain, from each subcontractor, a written agreement that is the same as, or comparable to, the following Sections of this Agreement: Customer Interactions, Exclusivity, Intellectual Property Rights, Confidentiality, Conflict of Interest, Subcontracting, Warranties, Indemnification,

Limitation of Liability, Insurance and any other flow-down provisions contained in the applicable Task Order.

## **16. WARRANTIES.**

Subcontractor warrants that:

1. the Services and Deliverables are original and do not infringe upon any third party's patents, trademarks, trade secrets, copyrights or other proprietary rights,
2. it will perform the Services hereunder in a professional and workmanlike manner,
3. the Deliverables Subcontractor provides to Prime are new, of acceptable quality free from defects in material and workmanship and will meet the requirements and conform with any specifications set forth in any Task Order entered into under this Agreement,
4. it will take commercially reasonable precautions to prevent the introduction of Harmful Code in Deliverables and correspondence and other materials prior to delivery to Prime. "Harmful Code" shall include, without limitation, any code containing viruses, Trojan horses, worms or like destructive code, code that self-replicates or code that contains a "timeout" feature to prevent access and use at some future date,
5. it has all necessary permits and is authorized to do business in all jurisdictions where Services are to be performed,
6. it will comply with all applicable federal and other jurisdictional laws in performing the Services,
7. it has all rights to enter into this Agreement and there are no impediments to Subcontractor's execution of this Agreement or Subcontractor's performance of Services hereunder.

## **17. INDEMNIFICATION.**

Subcontractor shall defend, indemnify, protect and hold harmless Prime, the Customer, and

each of their officers, employees and agents from and against any and all losses, demands, attorneys' fees, expenses, costs, damages, judgments, liabilities, causes of action, obligations or suits resulting from (1) any negligent act or omission or willful misconduct of Subcontractor, its personnel or approved subcontractors, (2) the breach of any provision of this Agreement by Subcontractor or its personnel or any approved subcontractors of Subcontractor, or (3) any claim that Intellectual Property provided by the Subcontractor under this Agreement infringes or misappropriates any third party Intellectual Property Right.

## **18. LIMITATION OF LIABILITY.**

1. EXCEPT AS SET FORTH 18(b) BELOW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES NOR FOR LOSS OF DATA, PROFITS OR REVENUE, COST OF CAPITAL OR DOWNTIME COSTS, NOR FOR ANY EXEMPLARY OR PUNITIVE DAMAGES, ARISING FROM ANY CLAIM OR ACTION, INCIDENTAL OR COLLATERAL TO, OR DIRECTLY OR INDIRECTLY RELATED TO OR IN ANY WAY CONNECTED WITH, THE SUBJECT MATTER OF THE AGREEMENT, WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT, STATUTE, IMPLIED DUTIES OR OBLIGATIONS, OR OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
2. NOTWITHSTANDING THE FOREGOING, ANY PURPORTED LIMITATION OR WAIVER OF LIABILITY SHALL NOT APPLY TO SUBCONTRACTOR'S OBLIGATION UNDER THE INDEMNIFICATION OR CONFIDENTIAL INFORMATION SECTIONS OF THIS AGREEMENT OR EITHER PARTY'S LIABILITY TO THE OTHER FOR PERSONAL INJURY, DEATH OR PHYSICAL DAMAGE TO PROPERTY CLAIMS.

## **19. INSPECTION & ACCEPTANCE.**

1. Non-Conforming Services and Deliverables. If any of the Services performed or Deliverables delivered do not conform to Task Order requirements, Prime may require the Subcontractor to perform the Services again or replace or repair the non-conforming Deliverables in order to bring them into full conformity with Task Order requirements, at Subcontractor's sole cost and expense. When the defects in Services and/or Deliverables cannot be corrected by re-performance, Prime may: (a) require Subcontractor to take necessary action, at Subcontractor's own cost and expense, to ensure that future performance conforms to the

requirements and/or (b) reduce any price payable under the applicable Task Order to reflect the reduced value of the Services performed and/or Deliverables delivered by Subcontractor and accepted by Prime.

2. Cover. If Subcontractor fails to promptly conform the Services and/or Deliverables to the Task Order requirements or specifications, or take action deemed by Prime to be sufficient to ensure future performance of the Task Order in full conformity with Task Order requirements, Prime may (a) by contract or otherwise, perform the services or subcontract to another subcontractor to perform the Services and reduce any price payable by an amount that is equitable under the circumstances and charge the difference in re-procurement costs back to Subcontractor and/or (b) terminate the Task Order and/or this Agreement for default.

## **20. INSURANCE.**

Subcontractor shall maintain adequate insurance coverage and minimum coverage limits for its business as required by any applicable law or regulation, including Workers' Compensation insurance as required by any applicable law or regulation, or otherwise as determined by Subcontractor in its reasonable discretion. Subcontractor's lack of insurance coverage shall limit any liability Subcontractor may have under this Agreement or any Task Order issued hereunder.

## **21. MISCELLANEOUS.**

1. Assignment. Subcontractor shall not assign any rights of this Agreement or any Task Order issued herein, and no assignment shall be binding without the prior written consent of Prime. Subject to the foregoing, this Agreement will be binding upon the Parties' heirs, executors, successors and assigns.
2. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.
3. Dispute Resolution. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by confidential arbitration in New York City, before the New York State Arbitration Alternative's arbitrator(s) (the "NYSAA"). The arbitration shall be administered by the NYSAA either online or in person pursuant to its NYSAA Commercial Arbitration Rules & Procedures accessible at [www.nysaa.nyc](http://www.nysaa.nyc). The NYSAA Rules and Code of Ethics are hereby

incorporated in this Agreement by reference. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitrator may, in the Award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party.

4. Notice. All notices required under this Agreement will be in writing and will be sent to the address of the recipient specified above. Any such notice may be delivered by hand, by overnight courier or by first class pre-paid letter, and will be deemed to have been received:
  - (1) if delivered by hand - at the time of delivery,
  - (2) if delivered by overnight courier - 24 hours after the date of delivery to courier with evidence of delivery from the courier,
  - (3) if delivered by first class mail – three (3) business days after the date of mailing.
5. Injunctive Relief. Subcontractor acknowledges it would be difficult to fully compensate Prime for damages resulting from any breach by Subcontractor of the provisions of the following Sections of this Agreement: Exclusivity, Intellectual Property Rights, Confidentiality, Subcontracting, and Warranties. Accordingly, in the event of any actual or threatened breach of such provisions, Prime will, in addition to any other remedies that it may have, be entitled to temporary and/or permanent injunctive relief to enforce such provisions.
6. Severability. The Parties recognize the uncertainty of the law with respect to certain provisions of this Agreement and expressly stipulate that this Agreement will be construed in a manner that renders its provisions valid and enforceable to the maximum extent possible under applicable law. To the extent that any provisions of this Agreement are determined by a court of competent jurisdiction to be invalid or unenforceable, such provisions will be deleted from this Agreement or modified so as to make them enforceable and the validity and enforceability of the remainder of such provisions and of this Agreement will be unaffected.
7. Independent Contractor. Nothing contained in this Agreement shall create an employer and employee relationship, a master and servant relationship, or a principal and agent relationship between Subcontractor and/or any Subcontractor employee(s) and Prime. Prime and Subcontractor agree that Subcontractor is, and at all times during this Agreement shall remain, an independent Subcontractor. The Subcontractor shall at all times be responsible for all Subcontractor's employees', agents, and subcontractor's actions, shall be responsible for any applicable taxes or insurance, and shall comply with any applicable public laws or regulations.

8. Force Majeure. Neither Party shall be liable for any failure to perform under this Agreement when such failure is due to causes beyond that Party's reasonable control, including, but not limited to, acts of state or governmental authorities, acts of terrorism, natural catastrophe, fire, storm, flood, earthquakes, accident, and prolonged shortage of energy. In the event of such delay the date of delivery or time for completion will be extended by a period of time reasonably necessary by both Subcontractor and Prime. If the delay remains in effect for a period in excess of thirty days, Prime may terminate this Agreement immediately upon written notice to Subcontractor.
  
9. Entire Agreement. This document and all attached or incorporated documents contains the entire agreement between the Parties and supersedes any previous understanding, commitments or agreements, oral or written. Further, this Subcontractor Agreement may not be modified, changed, or otherwise altered in any respect except by a written agreement signed by both Parties.

IN WITNESS WHEREOF, this Subcontractor Agreement was signed by the Parties under the hands of their duly authorized officers and made effective as of the Effective Date.

[Prime Contractor]

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[Name]

[Subcontractor]

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[Name]

