

# CONSTRUCTION SUBCONTRACTOR TAX INDEMNITY AND LIABILITY AGREEMENT

This Construction Subcontractor Tax Indemnity and Liability Agreement (the "Agreement") is entered into and made effective as of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by and between:

**Contractor:** \_\_\_\_\_, with a principal place of business at \_\_\_\_\_ (hereinafter referred to as the "Contractor"), and

**Subcontractor:** \_\_\_\_\_, with a principal place of business at \_\_\_\_\_ (hereinafter referred to as the "Subcontractor").

## RECITALS

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WHEREAS, Contractor has entered into a prime contract or is engaged in construction services for certain projects; and

WHEREAS, Contractor has engaged Subcontractor to perform certain construction-related services pursuant to an independent subcontractor agreement; and

WHEREAS, the parties desire to clarify and define the Subcontractor's sole liability and responsibility for all taxes associated with Subcontractor's operations, personnel, and performance, and to provide for the indemnification of Contractor against any related tax liabilities.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### 1. INDEPENDENT CONTRACTOR STATUS

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Subcontractor explicitly acknowledges and agrees that it is operating as an independent contractor. Nothing in this Agreement, the master subcontract, or any associated work order shall be construed to create an employer-employee, agency, partnership, or joint venture relationship between Contractor and Subcontractor, or between Contractor and any of Subcontractor's employees, agents, or lower-tier subcontractors.

### 2. TAX OBLIGATIONS AND SOLE LIABILITY

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Subcontractor assumes sole, exclusive, and complete liability for, and shall timely pay, all taxes, assessments, fees, and contributions arising out of or related to Subcontractor's performance of services, including but not limited to:

- a. Federal, state, and local income taxes, self-employment taxes, and corporate franchise taxes;
- b. Federal Insurance Contributions Act (FICA) taxes, Federal Unemployment Tax Act (FUTA) taxes, and state unemployment insurance (SUI) taxes;
- c. State and local sales, use, excise, gross receipts, and business taxes; and
- d. Workers' compensation premiums, disability insurance, and any other mandated statutory benefits or payroll taxes for all personnel employed or utilized by Subcontractor.

### 3. TAX INDEMNIFICATION

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Subcontractor hereby agrees to defend, indemnify, and hold harmless Contractor, its affiliates, directors, officers, employees, and agents from and against any and all claims, demands, liabilities, penalties, interest, assessments, losses, damages, costs, and expenses (including reasonable attorneys' fees and legal costs) arising out of, resulting from, or in connection with:

- a. Any failure by Subcontractor to timely pay or report any tax, fee, or assessment required by law;

- b. Any determination by a governmental authority, agency, or court (including the Internal Revenue Service or state department of labor/taxation) that Subcontractor, or any of Subcontractor's employees, agents, or lower-tier subcontractors, is an employee of Contractor; and
- c. Any withholding tax liabilities, penalties, or interest asserted against Contractor by any federal, state, or local taxing authority in connection with payments made to Subcontractor under any subcontract agreement.

**4. WITHHOLDING RIGHTS**

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If Contractor receives notice of, or reasonably anticipates, any unpaid tax liability, levy, or lien from any governmental authority concerning Subcontractor's performance or personnel, Contractor shall have the right to withhold from any pending or future payments due to Subcontractor an amount sufficient to satisfy such liability, levy, or lien. Contractor shall release such withheld funds only upon receipt of satisfactory written evidence from the applicable taxing authority that the liability has been fully satisfied and resolved.

**5. COOPERATION AND AUDIT RIGHTS**

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Subcontractor shall, upon reasonable request, provide Contractor with documentation demonstrating compliance with its tax obligations, including but not limited to certificates of good standing, proof of tax filings, workers' compensation certificates, and proof of payroll tax payments. Subcontractor agrees to cooperate fully with Contractor in defending against any audit, inquiry, or claim by any governmental authority regarding the tax classification of Subcontractor or its personnel.

**6. GOVERNING LAW AND JURISDICTION**

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This Agreement shall be governed by, interpreted, and construed in accordance with the laws of the State of \_\_\_\_\_, without regard to its conflict of law principles. Any legal action or proceeding arising under this Agreement shall be brought exclusively in the courts of \_\_\_\_\_ County, \_\_\_\_\_.

**7. TERM AND SURVIVAL**

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The indemnification obligations and covenants set forth in this Agreement shall survive the completion of any subcontract work, the termination of any contract between the parties, and the expiration of any applicable statute of limitations.

IN WITNESS WHEREOF, the parties hereto have executed this Construction Subcontractor Tax Indemnity and Liability Agreement as of the Effective Date written above.

**CONTRACTOR:**

**SUBCONTRACTOR:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_