

# SUBCONTRACTOR TAX WITHHOLDING AND COMPLIANCE AGREEMENT

This Subcontractor Tax Withholding and Compliance Agreement (the "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between:

**Contractor:** \_\_\_\_\_

Address: \_\_\_\_\_

Taxpayer Identification Number (TIN): \_\_\_\_\_

and

**Subcontractor:** \_\_\_\_\_

Address: \_\_\_\_\_

Taxpayer Identification Number (TIN): \_\_\_\_\_

## **RECITALS**

WHEREAS, Contractor and Subcontractor have entered into or are about to enter into a prime subcontract agreement or service agreement (the "Main Agreement") for the provision of services by Subcontractor; and

WHEREAS, Internal Revenue Code (IRC) Section 3406 requires payers to report and, in certain circumstances, withhold tax (referred to as "backup withholding") from payments made to certain independent contractors and subcontractors; and

WHEREAS, to ensure compliance with federal, state, and local tax laws, Contractor requires Subcontractor to provide accurate tax documentation and certification regarding their withholding status;

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. TAXPAYER IDENTIFICATION AND DOCUMENTATION**

Subcontractor shall, upon execution of this Agreement, provide Contractor with a completed, signed, and dated IRS Form W-9 (Request for Taxpayer Identification Number and Certification) or applicable Form W-8 (for foreign status). Subcontractor certifies under penalties of perjury that the Taxpayer Identification Number (TIN) provided on said form is correct and belongs to Subcontractor, and that Subcontractor is not subject to backup withholding.

## **2. BACKUP WITHHOLDING OBLIGATIONS**

Contractor is required by law to withhold taxes at the statutory backup withholding rate (currently \_\_\_\_\_ %) from all reportable payments made to Subcontractor under the following circumstances:

- A. Subcontractor fails to provide their TIN in the manner required;
- B. The IRS notifies Contractor that the TIN provided by Subcontractor is incorrect;
- C. The IRS notifies Contractor that Subcontractor is subject to backup withholding due to notified payee underreporting; or
- D. Subcontractor fails to certify, under penalties of perjury, that they are not subject to backup withholding when required to do so.

If any of the above conditions are met, Contractor shall immediately commence backup withholding and remit such withheld funds to the IRS in accordance with applicable laws. Contractor shall have no liability to Subcontractor for any funds withheld and remitted to the IRS in good faith compliance with these requirements.

## **3. NOTIFICATION OF STATUS CHANGE**

Subcontractor agrees to notify Contractor in writing within \_\_\_\_\_ days of any change in its tax status, including but not limited to: change in business entity type, change in ownership, receipt of notice from the IRS that Subcontractor has become subject to backup withholding, or any change in TIN. Subcontractor shall immediately submit a newly executed Form W-9 or W-8 upon any such change.

**4. INDEMNIFICATION**

Subcontractor agrees to indemnify, defend, and hold harmless Contractor, its officers, directors, employees, and agents from and against any and all claims, liabilities, penalties, interest, fines, losses, or expenses (including reasonable attorneys' fees) arising out of or resulting from Subcontractor's failure to provide accurate tax information, failure to timely notify Contractor of any change in tax status, or any failure by Contractor to withhold taxes resulting from reliance on inaccurate information provided by Subcontractor.

**5. GOVERNING LAW**

This Agreement shall be construed, interpreted, and governed by the laws of the State of \_\_\_\_\_, without regard to its conflict of law principles, and applicable federal tax laws.

**6. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties regarding tax withholding and compliance and supersedes all prior discussions, representations, or agreements, whether written or oral, on this subject. This Agreement may only be amended in writing signed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**CONTRACTOR:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SUBCONTRACTOR:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_