

STANDARD SUBCONTRACTOR TAX BACKUP WITHHOLDING CONTRACT
AGREEMENT TEMPLATE FOR SUBCONTRACTOR BACKUP WITHHOLDING REQUIREMENTS

This Agreement is entered into on this _____ day of _____, 20____, by and between:

Contractor: _____

Address: _____

And

Subcontractor: _____

Address: _____

1. RECITALS AND PURPOSE

Whereas, the Contractor has engaged the Subcontractor to perform certain services pursuant to a primary independent contractor or subcontractor agreement; and

Whereas, the Contractor is required under federal tax laws, specifically Internal Revenue Code (IRC) Section 3406, and applicable state laws, to report payments made to the Subcontractor and, under certain conditions, to perform backup withholding on such payments; and

Whereas, the parties desire to establish the terms and protocols governing federal and state tax backup withholding to ensure full compliance with internal revenue laws.

2. TAXPAYER IDENTIFICATION NUMBER (TIN) CERTIFICATION

The Subcontractor agrees to provide the Contractor with a correctly completed and signed IRS Form W-9 (Request for Taxpayer Identification Number and Certification) or the applicable Form W-8 series, prior to receiving any payment under any current or future agreement. The Subcontractor certifies that:

- a. The Taxpayer Identification Number (TIN) provided is correct: _____ (FEIN / SSN).
- b. The Subcontractor is not subject to backup withholding because: (i) they are exempt from backup withholding, or (ii) they have not been notified by the Internal Revenue Service (IRS) that they are subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified them that they are no longer subject to backup withholding.
- c. The Subcontractor is a U.S. citizen or other U.S. person (as defined in Form W-9 instructions) or has otherwise provided valid foreign status certification.

3. CIRCUMSTANCES TRIGGERING BACKUP WITHHOLDING

The Subcontractor acknowledges and agrees that the Contractor is legally obligated to initiate backup withholding and deduct a specified percentage from all reportable payments if any of the following events occur:

1. The Subcontractor fails to provide their TIN in the manner required.
2. The IRS notifies the Contractor that the TIN provided by the Subcontractor is incorrect and the Subcontractor fails to resolve the mismatch within the legally prescribed timeframe.
3. The IRS notifies the Contractor that the Subcontractor is subject to backup withholding due to underreported interest or dividends on past tax returns.
4. The Subcontractor fails to certify to the Contractor, under penalties of perjury, that they are not subject to backup withholding.

4. RATE OF WITHHOLDING AND REMITTANCE

In the event backup withholding is triggered, the Contractor shall withhold the standard statutory rate as determined by the IRS (currently _____% under federal law) and/or any applicable state tax authority from all gross payments due to the Subcontractor. All withheld funds will be remitted directly to the IRS and/or state taxing authority in accordance with applicable laws. The Contractor shall report all withheld amounts annually on IRS Form 1099-NEC (or applicable tax form).

5. SUBCONTRACTOR RESPONSIBILITY AND INDEMNIFICATION

The Subcontractor agrees to promptly notify the Contractor in writing within _____ business days of any change in their backup withholding status or TIN. The Subcontractor agrees to indemnify, defend, and hold harmless the Contractor from any and all liabilities, penalties, interest, fines, legal fees, and costs incurred as a result of the Subcontractor providing inaccurate, false, or incomplete tax information, or failing to timely update tax status documentation.

6. RELEASE OF WITHHOLDING

The Contractor will cease backup withholding only upon receiving written validation from the IRS, or upon receiving a newly executed, valid IRS Form W-9 from the Subcontractor that confirms the Subcontractor is no longer subject to backup withholding. Under no circumstances shall the Contractor be liable to refund to the Subcontractor any tax amounts already remitted to the IRS or state tax authorities.

7. GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the laws of the State of _____, without regard to its conflict of law principles, as well as applicable federal tax laws.

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

CONTRACTOR:

SUBCONTRACTOR:

Authorized Signature

Authorized Signature

Print Name

Print Name

Title

Title

Date

Date