

1610 East Morehead, Suite 200
Charlotte, North Carolina 28207
Tel 704.365.3160 / Fax 704.365.3101



Post Office Box 6128
Greenville, South Carolina 29606
Tel 864.250.1555 / Fax 864.250.1888

SHORT FORM SUBCONTRACT AGREEMENT *LIMITED VALUE UP TO \$25,000.00

NOTICE: THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO S.C. CODE ANN. 15-48-10 ET SEQ.

This AGREEMENT made this _____ day of _____, 2008 by and between *A M KING CONSTRUCTION COMPANY, LLC*, hereinafter called the "Contractor", and _____

_____ hereinafter called the "Subcontractor"

SUBCONTRACTOR ADDRESS: _____

SUBCONTRACT #: _____

SUBCONTRACT AMOUNT: _____

COST CODE: _____

Attention: _____

Telephone: _____

Fax: _____

Cell: _____

In consideration of the agreements contained herein, the parties hereto contract and agree as follows:

Part I - Work to be Performed: The Subcontractor agrees to furnish all labor, services, materials, supervision, tools, scaffolds, hoisting facilities, cranes, equipment, supplies, taxes, permits, licenses, insurance, inspection costs, incidentals and other facilities of every kind and description, unless specifically excluded herein necessary to perform and complete in every respect the _____ (generic description of the Work) Work described herein and in the Contract Documents (herein "the Work") as developed by _____ (the "Architect") for _____ (the "Project") in _____ (the "Site").

It is understood that A M King's Subcontractor Safety, Medical Rules and Regulations (Exhibit "F") are incorporated and made a minimum standard requirement for this Subcontract. It is further agreed that the Subcontractor has been compensated in the contract price below and bears sole responsibility for its employees' safety. Subcontractor recognizes and warrants that it has, and will exercise, complete charge and control of its work and employees and will undertake whatever measures are necessary to ensure their safety.

Part II - Entire Agreement: The documents referenced in this Section are collectively referred to herein as "the Contract Documents" and are by reference made and considered a part of the Subcontract. This Short Form Subcontract Agreement (herein the "Subcontract") and the Exhibits hereto (the "Contract Documents") embody the entire agreement between Contractor and Subcontractor. The parties shall not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth herein or in the Contract Documents. Furthermore, it is understood and agreed that the Subcontractor's bid or proposal to perform the Work are not part of the Subcontract or the Contract Documents. Except as otherwise provided hereinafter, no changes, modifications or amendments of any kind of the terms and conditions hereof shall be valid unless agreed by the parties in writing and signed by their authorized representative.

Part III - Scope of Work:

- Drawings:** The Drawings described on the attached Drawing List Exhibit "A", are part of the Contract Documents and depict, in part, the Subcontractor's Scope of Work.
- Scope Clarification Sheet:** Any deviations from or additions to the Scope described herein shall be made on the Subcontract Scope Clarification Sheet, attached hereto as Exhibit "B" and hereby is made a part of this Agreement.
- Schedule:** Time is of the essence. The parties acknowledge that unanticipated delays, the work of other trades, intervening events and other occurrences may require the alteration of the project schedule. Subcontractor acknowledges that the Contractor may reschedule and re-sequence Subcontractor's Work, from time to time, and as the demands of the Project require, without any additional cost or expense to be paid to the Subcontractor. Subcontractor shall commence performance of the Work on or about _____ and shall complete the Work no later than _____.
- Location:** The Subcontractor acknowledges that, prior to the execution of this Contract, it has by its own independent investigation ascertained the conditions involved in performing its Work, including the location of the Work, accessibility, the character of the Site, the quality and quantity of surface and subsurface conditions, equipment and facilities needed for the

prosecution of the Work and any other matters which might in any way affect the Work, or the cost or timing thereof.

5. **Pricing:** The Subcontractor acknowledges that it has read and understands all Contract Documents and terms listed herein and is fully qualified and able to perform and complete the Work in accordance therewith for the lump sum amount of \$ _____, (US Dollars). Furthermore, Subcontractor acknowledges that this price is firm, and is not subject to change or escalation without written change order.

Part IV - Payment:

1. **Monthly Payment Estimates:** The Subcontractor shall submit to the Contractor an acceptable partial payment estimate for the portion of the Work performed during the preceding month no later than the 25th of each month on payment estimate forms attached hereto as Exhibit "C". Unless otherwise provided herein, the Contractor shall cause partial payments to be made to Subcontractor within ten (10) days following Contractor's receipt of payment from the owner for Work performed by Subcontractor. Subcontractor shall, in turn and in the same manner, pay in full its laborers and make partial payments to its subcontractors and suppliers.
2. **Retainage:** It is agreed that Contractor shall retain 10% of the amount due Subcontractor on each progress payment until final completion and acceptance of Subcontractor's Work by the owner or Contractor.
3. **Conditions Precedent to Payments:** The Subcontractor's furnishing of each of the following shall constitute independent conditions precedent to the Contractor's obligation to make any payment to the Subcontractor:
 - a. A signed, returned, and approved Short Form Subcontract Agreement;
 - b. Insurance Certificates satisfying the requirements of Section 4 herein;
 - c. Releases of lien and waivers of claims from all sub-subcontractors and materialmen (Exhibit "D");
 - d. Absence of any material breach of this Agreement by the Subcontractor.
4. **Final Payment:** Final payment by Contractor to Subcontractor shall be subject to all items listed as "Conditions Precedent to Payment" being met as well as items listed below:
 - a. Subcontractor's full and proper performance of all Subcontract requirements;
 - b. The acceptance of Subcontractor's Work by Contractor, owner and Architect;
 - c. Receipt of written guarantees, as-built drawings, operation and maintenance manuals and any other documentation as required by the Contract Documents;
 - d. Subcontractor's execution and delivery to Contractor of a Final Release and Affidavit (Exhibit "E");
 - e. Receipt by the Contractor of full and final payment from the owner.

Part V - Insurance: Before commencing the Work, and until completion and final acceptance of the Work, the Subcontractor shall procure and maintain, at its own expense, the insurance coverages described below and shall be with insurance companies acceptable to Contractor and with A.M. Best Rating of A minus or better. The Certificate Holder shall be included and if requested Owner and Owner's agents, as Additional Insured on General Liability coverage, including Ongoing and Completed Operations, when required by written contract. Coverage is primary and non-contributory. Umbrella follows form. Waiver of Subrogation applies in favor of Additional Insured on General Liability coverage and Workers Compensation coverage when required by written contract.

1. **Commercial General Liability Insurance:** Limits of \$1,000,000 per occurrence/\$2,000,000 aggregate Bodily Injury and Property Damage Liability.
2. **Worker's Compensation and Employer's Liability Insurance:** Shall be in accordance with and providing coverage meeting or exceeding the limits required by the laws of the jurisdiction in which the Project is located.
3. **Motor Vehicle Liability Insurance:** Shall have bodily limits and property limits of \$1,000,000 or a combined single limit of \$1,000,000.
4. **Umbrella Liability Insurance:** Shall have a policy limit of \$1,000,000.

Part VI - Performance:

1. **Supervision of the Work:** Subcontractor agrees to have, at all times, a representative at the site of the Work with full responsibility and capability for the prosecution of the Work, with full authority to act on behalf of Subcontractor in all matters, and with the knowledge and capacity to render full reports to Contractor on the progress and plan for the completion of the Work.
2. **Protection of Work:** Subcontractor shall be responsible for and shall protect its Work in place from the elements and other causes of damage until completion and final acceptance, and shall adequately store and protect its own materials and materials furnished to it by others.
3. **Temporary Facilities and Use of Site:** Subcontractor shall provide, and be responsible for the cost of, all temporary facilities necessary for the performance of the Work or required by the Contract Documents.
4. **Removal of Waste and Debris:** The Subcontractor shall be responsible for keeping the Subcontractor's portion of the project clean and free from rubbish, debris, waste and surplus materials resulting from its operations to the satisfaction of the Contractor.
5. **Nonperformance Due to Labor Disputes:**
 - a. Subcontractor shall at all times supply a sufficient number of skilled workers to perform Subcontractor's Work with promptness and diligence. Should any workers performing Subcontractor's Work engage in a strike or other work stoppage or cease to work due to picketing or a labor dispute of any kind, the Contractor may, at its option and without

prejudice to any other remedies it may have, after forty-eight (48) hours written notice to Subcontractor, provide any such labor and deduct the cost thereof from any monies then due or thereafter to become due Subcontractor. Further, the Contractor may, at its option, without prejudice to any other remedies it may have, terminate the employment of Subcontractor for Subcontractor's Work, and shall have the right to enter upon the Construction Site and take possession, for the purpose of completing Subcontractor's Work, of all of Subcontractor's materials, tools and equipment thereon and to finish Subcontractor's Work either with its own employees or other subcontractors; and in case of such termination of the employment by the Contractor, Subcontractor shall not be entitled to receive any further payments under this Subcontract or otherwise but shall nevertheless remain liable for any damages which the Contractor incurs. If the expenses incurred by the Contractor in completing Subcontractor's Work shall exceed the unpaid balance due Subcontractor, Subcontractor shall pay the difference to the Contractor together with any other damages incurred by the Contractor as a result of Subcontractor's default. Subcontractor understands and agrees that a strike, walkout, or other work stoppage or slowdown caused by any labor dispute shall not constitute a force majeure occurrence in any event under the terms of this Contract. Contractor further understands and agrees that any delays in the progress of the work caused by a strike, picket, walkout, or other work stoppage or slowdown resulting from any labor dispute shall not constitute a delay directly caused by an act of the Owner or Contractor. Subcontractor agrees that, in the event of any strike, picket, walkout, or other stoppage or slowdown caused by any labor dispute, subcontractor will continue to perform the Work without interruption or delay.

b. In the event of any inconsistency between the provisions of Section VI.5.a. and any other provision of the Agreement or the Contract Documents, the provisions of Section VI.5.a. shall prevail. Any provision of this Agreement or the Contract Documents with respect to arbitration or determination of disputes by the Architect, arbitrators or others, shall not apply to Section VI.5.a.

6. **Reserved Gates:** Reserved gates may be established on the Construction Site. If established, Entrance No. 1 shall be utilized by nonunion firms, their subcontractors, employees, suppliers and material handlers. Entrance No. 2 shall be utilized by union firms, their subcontractors, employees, suppliers and material handlers. These entrances, if established, shall not be misused. The entrances shall also be observed by the management of Subcontractor and its subcontractors, suppliers and materialmen as well as all other employees.

In the event that Subcontractor violates the provisions of this Section VI.6, the Contractor shall have the right, without prejudice to any other rights or remedies it may have, to terminate the employment of Subcontractor for Subcontractor's Work, and shall have the right to enter upon the Construction Site and take possession, for the purpose of completing Subcontractor's Work, of all of Subcontractor's materials, tools and equipment thereon and to finish Subcontractor's Work either with its own employees or other subcontractors; and in case of such termination of the employment by the Contractor, Subcontractor shall not be entitled to receive any further payments under this Agreement or otherwise but shall nevertheless remain liable for any damages which the Contractor incurs. If the expenses incurred by the Contractor in completing Subcontractor's Work shall exceed the unpaid balance due Subcontractor, Subcontractor shall pay the difference to the Contractor together with any other damages incurred by the Contractor as the result of Subcontractor's default.

Part VII - Changes:

1. If any written directive or any other act or omission by the Contractor is deemed by the Subcontractor to increase the Subcontract price, and/or modify the Project Schedule, the Subcontractor shall notify Contractor in writing within five (5) days. Subcontractor's failure to fully and timely comply in writing with the requirements of this subparagraph will constitute a complete waiver of any Subcontractor claim for additional compensation or time extension.
2. Work done on a time and material basis must be documented separately by the Subcontractor and said documentation signed daily by Contractor's authorized representative. Subcontractor's failure to strictly follow these time and material work procedures will release Contractor from all responsibility for payment for the Work. Only the Contractor's construction manager or project manager are authorized to sign for this Work.
3. In the event a change in or deletion of the Work which results in a deductive change (credit), the deductive change shall be inclusive of overhead, profit, insurance, and bond costs.

Part VIII - Resolution of Disputes: In the event of any dispute, claim or controversy, the Subcontractor agrees that it shall proceed with the performance of the Subcontract, in the manner directed by Contractor, so as not to delay or interfere with the performance and completion of the Work. In the event of a dispute between the parties, all claims, disputes or other issues arising out of the performance of this Subcontract shall be submitted to arbitration according to the Construction Industry Arbitration Rules of the American Arbitration Association. Unless otherwise mutually agreed, the proceedings shall take place in Greenville, South Carolina.

Part IX - Termination: If, in the opinion of Contractor, Subcontractor at any time fails in any respect to prosecute the Work with promptness and diligence, or fails in the performance of any of the agreements on its part contained herein, Contractor shall be at liberty, if Subcontractor has failed to cure such default within three (3) days following written notice to Subcontractor to terminate all or part of the Subcontractor's right to proceed with the Work and to enter on the Site and take possession, for the purpose of completing the Work, all materials, tools, equipment, documents and other property necessary to the completion of the Subcon-

tractor's Work. The performance of Work under this Subcontract may be terminated at the convenience of the Contractor for any reason, in whole or in part, at any time, by written notice. In such event, the Subcontractor will be entitled to payment for all work satisfactorily completed. The Subcontractor will not be entitled to payment for uncompleted Work, or for anticipated profit or unabsorbed overhead, or any other expenses or damages resulting from termination.

Part X - Warranty and Tests:

1. **Warranty:** The Subcontractor expressly warrants that all materials and equipment incorporated in the Work shall conform to the specifications, drawings, samples and other descriptions set forth in the Subcontract and the Contract Documents and will be of good materials and workmanship and free from defect.
2. **Testing:** Subcontractor shall, at its own expense, have its work tested and inspected in accordance with the requirements of the Contract Documents, applicable codes and regulations, this Subcontract, the suppliers or manufacturers of the materials or systems and applicable industry standards.

Part XI - Indemnity:

1. For and in consideration of the covenants of Contractor under this Subcontract, the Subcontractor hereby assumes the risk of, and covenants to indemnify Contractor, owner, and employees and agents of each against, and save them harmless from any and all losses, damage, liabilities, costs and expenses, including reasonable attorney's fees, arising out of or resulting from Subcontractor's performance or breach of the provisions or covenants of this Subcontract.
2. Subcontractor shall fully indemnify and hold harmless A M King Construction and the Owner if the subcontractor's employees agents, independent contractors and/or sub-subcontractors violate any state and/or federal law, including employment and/or immigration laws.

Part XII - Communications: All written communications with Contractor shall reference the Project and shall be transmitted to the Contractor's address set forth at the beginning of this Subcontract and shall be to the attention of the project manager.

A M KING CONSTRUCTION COMPANY, LLC

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SUBCONTRACTOR

BY: _____

BY: _____

TITLE: _____

TITLE: _____