**Rider to Subcontractor Agreement dated \_\_\_\_\_**

**between \_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_ (the “Agreement”).**

Job No.:

Description of Project:

Agreement:

1. To the extent there is any conflict between this Rider and the subject Agreement, this Rider shall control.
2. Any time the Agreement calls for the discretion of Contractor, said discretion shall be interpreted as the reasonable discretion of the Contractor under the specific circumstances at that time.
3. At no time shall any provision of the Agreement be interpreted in such a manner as to effectively violate New York Lien Law with respect to the unenforceability of either a pay-when-paid provision or pay-if-paid provision. Any reference to a pay-when-paid or pay-if-paid provision shall be interpreted solely as a good faith understanding that the Subcontractor shall make reasonable efforts to mirror the Contractor’s billing schedule.
4. Absent a separate duly executed writing indicating at its header that said document is intended to be a “Waiver of Lien” nothing in the Agreement or any of the Contract Documents shall be construed to be a waiver of Subcontractor’s lien rights pursuant to New York Lien Law.
5. Should Subcontractor be in default of any provision of the Agreement, Contractor shall provide Subcontractor with at least 5 days written notice of any alleged default so that Subcontractor shall have a reasonable opportunity to cure said alleged default.
6. If the Subcontractor is delayed at any time in the commencement or progress of the work by changes ordered in the work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, discovery of hazardous materials, or other causes beyond the Subcontractor control, the Contract Time shall be subject to equitable adjustment.
7. Subcontractor shall be entitled to additional compensation or damages, whether direct, indirect, consequential, incidental or otherwise, by reason of any delay caused by Contractor or Owner should those delays material alter the Subcontractor’s scope or time of performance. If there are delays for more than 6 months Contractor agrees to a reasonable price increase solely for the change in price of materials.
8. All work covered by the Agreement shall be performed in skillful and workmanlike manner. Subcontractor shall perform or furnish all necessary labor, materials, plant, tools, supplies, equipment, services, transportation, scaffolding, permits, licenses, supervision, and inspection necessary to complete the work described in the contract documents, unless expressly agreed to otherwise by the parties in writing. Subcontractor shall provide all services, business administration and supervision, necessary for, or incidental to, the successful prosecution of the Subcontractor’s work (as described in the contract documents), in an expeditious and economical manner, consistent with accepted industry standards, and in strict and complete compliance with: (1) the Contract Documents referenced in the subject Agreement; (2) the project schedule; (3) applicable laws pertinent to the means and methods of performing the work under the Agreement; and (4) recognized good construction practices in the general area where the project is located. Nothing herein shall be construed to impose upon Subcontractor professional standards of care of either an architect or engineer.
9. The Subcontractor and Contractor may agree in writing upon changes in the work within the general scope of the Agreement consisting of additions, deletions, or other revisions, with the Contract Sum and contract time being adjusted accordingly in writing. If the Subcontractor and Contractor cannot agree to a change in the Contract Sum, the Contractor shall pay the Subcontractor its actual cost, plus reasonable overhead and profit.
10. If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the contract price and contract time shall be subject to equitable adjustment.
11. Costs caused by the delays, or improperly timed activities or defective construction shall be borne by the responsible party.
12. The contract price does not include any items of work that are not reasonably foreseeable in completing the contracted for work including but not limited to (a) latent conditions (b) additional work resulting from changed conditions or conditions that substantially deviate from those assumed conditions in the initial proposal as determined by Contractor’s representations, specifications, drawings or documents (made a part hereof), (c) conditions not readily apparent or reasonably discoverable upon the Subcontractor’s initial inspection of the project site, (d) conditions that are only know by Contractor or Contractor’s Agents, or Contractor that have not been disclosed prior to executing this Agreement, and (e) conditions that may exist behind walls, below floors, above ceilings and in the soil as applicable.
13. Right to Withhold Payments Under Certain Circumstances. Payment to the **Subcontractor** may be withheld **for any of the following reasons:**
    * 1. defective Work not remedied;
      2. third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Contractor is provided by the Subcontractor;
      3. failure of the Subcontractor to make payments properly to its subcontractors for labor, materials or equipment;
      4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Sub Contract Sum;
      5. damage to the Owner or to Contractor ;
      6. reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
      7. damage to Owner or Contractor resulting from Sub Contractor’s failure to carry out the Work in accordance with the contract documents.

AGREED TO:

SUBCONTRACTOR

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME AND TITLE

CONTRACTOR

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME AND TITLE