

Graham Company Name and Address

Subcontractor Company Name and Address

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_

**BETWEEN** Graham Company Name  
(hereinafter known as the Contractor)

**AND** Subcontractor Company Name  
(hereinafter known as the Subcontractor)

**WHEREAS THE CONTRACTOR** has entered into an agreement (hereinafter called the "Prime Contract") dated the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ with

Owner Name  
(hereinafter called "the Owner")

for the construction of Project Name  
(hereinafter called "the Project")

**AND WHEREAS** the Prime Contract includes the work to be performed under this Agreement (hereinafter called the "Subcontract").

**AND WHEREAS** the Subcontractor has agreed with the Contractor to be bound by all of the terms and conditions of the Prime Contract that are governed by the plans, specifications, general and supplementary conditions and addenda for the Project.

**WITNESSETH** that the Contractor and the Subcontractor agree as follows:

#### **ARTICLE 1 - The Work**

The Subcontractor shall furnish all necessary labour, materials, tools and equipment to complete the portion(s) of the Project (hereinafter called the "Work") at and for the Subcontract Price identified in Article 2 and as detailed in Appendix A.

#### **ARTICLE 2 - Subcontract Price**

The Subcontract Price is \$XXX,XXX.XX dollars in Canadian Funds exclusive of any value added tax ("VAT", which shall include but not be limited to the Goods and Services Tax or the Harmonized Sales Tax as applicable under the Excise Tax Act) and inclusive of all other federal and provincial taxes of any kind whatsoever, and the Subcontract Price shall be subject to adjustment by the amount of any increase or decrease in cost to the Subcontractor due to changes to such included taxes arising after the time of bid closing. The Subcontract amount will be adjusted based on approved quantities and unit prices for all unit price items.

#### **ARTICLE 3 - Surety Bonds/Subcontractor Performance Security**

The Subcontractor agrees to provide the following Surety Bonds and/or Subcontractor Performance Security in a form acceptable to the Contractor, naming the Contractor as obligee:

##### **Performance Security Description.**

#### **ARTICLE 4 - Payment**

The Contractor agrees to pay the Subcontractor for performance of the Subcontract as follows:

- (a) The Subcontractor shall submit proper progress claims acceptable to the Contractor on or before the 20th day of each month for submission for certification to the Owner or the Owner's Consultant(s) designated pursuant to the Prime Contract covering work performed up to such date.
- (b) Payments will be made monthly on progress claims as certified by the Owner or its said Consultant(s) covering 90.00% of the work completed by the Subcontractor plus the applicable VAT, such payments to be made within ten (10) days after the Contractor has received payment from the Owner.
- (c) The balance of the amount payable by the Contractor to the Subcontractor pursuant to each such progress claim, as so certified, shall be paid one (1) day after the builder's lien rights expire or within ten (10) days after receipt of such amount by the Contractor from the Owner, whichever is the later.

SIGNATURE COPIES: WHITE-BLUE-YELLOW

ROUTING OF COPIES: WHITE - to SUBCONTRACTOR when signed by both parties

Graham Company and Address

Subcontractor Company Name and Address

- (d) Notwithstanding paragraphs (b) and (c) above, if the Owner fails to make payment to the Contractor when due in accordance with the terms of the Prime Contract, the associated payment to the Subcontractor will become due sixty (60) days after payment was due to the Contractor from the Owner.
- (e) The Subcontractor agrees that, if the Owner does not pay the Contractor for reasons of the Owner's insolvency or for reasons relating to the non-performance of the Subcontractor, then, notwithstanding the provisions of paragraph (d) of this Article 4, the Contractor shall not be obligated to pay to the Subcontractor the associated payment.
- (f) No progress payment or final payment shall be due or payable until the Subcontractor furnishes the Contractor with the required documentation as outlined in the Conditions of this Subcontract, together with a sworn statement that all accounts for labour, sub-subcontracts, materials, construction machinery and equipment and other indebtedness which might have been incurred by the Subcontractor in the performance of the Work and for which the Contractor might in any way be held responsible have been paid in full (except for holdback amounts to be payable out of the funds to be paid to the Subcontractor or as an identified amount in dispute).

**ARTICLE 5 - Contract Documents**

The Subcontractor agrees to be bound by all of the terms and conditions of the Prime Contract, including all plans, specifications, general and supplementary conditions and addenda thereto, and in construing the Subcontractor's obligations under the Prime Contract, the term "Owner" will be read as "Contractor" and the term "Contractor" will be read as the term "Subcontractor". The terms and conditions of the Prime Contract (including without limitation any guarantees or warranties thereunder as to performance and/or quality of the Work) and the plans, specifications, general and supplementary conditions and addenda of the Prime Contract, and the Subcontract Terms and Conditions and any appendices attached hereto, and the Contractor's schedule as hereinafter provided for shall form part of this Subcontract and the whole shall constitute the entire Subcontract between the parties and the same are hereinafter referred to as the "Contract Documents".

**ARTICLE 6 - Schedule**

The Subcontractor will begin the Work upon award of the Subcontract and will schedule its requirements to carry on and complete the Work in accordance with the Contractor's schedule, as amended from time to time, so as not to interfere with or delay the work of the Contractor or any other Subcontractor. The order and schedule of the Work will be determined at the sole discretion of the Contractor in consultation with the Subcontractor. Notwithstanding any such consultation with the Subcontractor, the Contractor's determination of such order and schedule for the Work (whether made before or after the signing of this Subcontract) shall be binding upon the Subcontractor. If the Subcontractor fails to perform in accordance with the Contractor's schedule and by reason thereof the Contractor becomes liable for liquidated damages or other damages or incurs additional costs because of non-performance of the Subcontractor, the Subcontractor shall become responsible for payment to the Contractor of such proportionate share of any liquidated damages, other damages or losses so incurred.

**ARTICLE 7 - Addresses for Notices**

Addresses for notices for the parties under this Subcontract are:

Contractor's Address \_\_\_\_\_

Subcontractor's Address \_\_\_\_\_

Graham Company Name and Address

Subcontractor Company Name and Address

IN WITNESS THEREOF the parties hereto have executed this Agreement including Conditions annexed hereto, the day and year above written.

SIGNED AND DELIVERED in the presence of:

**Graham Company Name**

**Subcontractor Company Name**

CONTRACTOR

SUBCONTRACTOR

(Authorized Signature)

(Authorized Signature)

(Name and Title)

(Name and Title)

