

This AGREEMENT made this «condate», by and between ACS System Associates, Inc. located at 160 W Lincoln Avenue, Mt. Vernon, NY 10550 (hereinafter the "Contractor"), and «venname», Phone: «venphone», Fax: «venfax» (hereinafter the "Subcontractor").

WHEREAS. The Contractor has entered into a written contract with:

«cusname»

Hereinafter referred to as "Owner" to perform all labor and to furnish all materials and equipment for the construction of the project known as:

«jobname», Contract No. «connum»

in accordance with the plans, specifications, general and special conditions, addenda, etc. forming a part of the Contractor's contract with Owner, copies of which are on file in the office of the Contractor and have been examined by the Subcontractor, and are incorporated herein by reference. All contracts referenced herein shall collectively be referred to as the "Contract." This Contract specifically incorporates all the following provisions of Owner's contract with Contractor: No Damage for Delay; Notice of Claim; Notice of Dispute; Notice of impact; Notice of Delay or Potential Delay; Termination for Convenience; Extensions of Time; and Dispute Resolution Processes. Subcontractor assumes toward Contractor all of the duties, obligations and responsibilities that Contractor assumes towards the Owner. All Riders attached herewith shall be incorporated as part of the Contract hereof.

In consideration the Subcontractor's performance of this contract, the contractor shall pay the subcontractor the sum of «conamount» («conamounttext»)

WITNESSETH

The parties hereto do hereby mutually agree as follows:

The Subcontractor represents that Contractor has made available to the Subcontractor the opportunity to view the Contract in its entirety and that Subcontractor is fully familiar with all the terms and conditions of the Contract and therefore the Subcontractor agrees to be bound by all the terms and conditions thereof with the same force and effect as if the same were set forth at length herein and agrees to carry out this Subcontract fully and faithfully.

The Subcontractor agrees to furnish all labor, materials, tools, equipment, appliances and all other things necessary including, but not limited to, submittals, start-up, and close-out paperwork such as operations and maintenance manuals or tests, to complete the following described work in accordance with the terms of this Subcontract, and any and all general conditions, plans, specifications, amendments or addenda to same, or bulletins issued in connection therewith, and all drawings and details, and any and all other instruments comprising the Contract for the performance of RIDER "A" - **SCOPE OF WORK** (attached).

The Contractor agrees to pay the Subcontractor in full therefore, representing the Subcontractor's total compensation and expenses hereunder, **SEE RIDER "A"**, which total sum is herein called the "Subcontract Price."

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ACS System Associates, Inc.

All guarantees and warranties shall be in strict accordance with the Contract documents but no instance will the warranty be for less than one (1) year after acceptance by the Owner.

FURTHER AGREED as follows:

The Contractor shall make payments to the Subcontractor once each month in the amount of **90%** of the estimate submitted by the Subcontractor and approved by the Contractor and Owner for which payment has been received by the Contractor from the Owner, for work performed during the previous month. In exchange for payment Subcontractor shall also furnish, as required by Contractor or Owner. In its sole, unaided option and discretion, such partial or final receipts, lien waivers, releases, verified payroll reports as Contractor or Owner deems necessary to ensure, among other things, that Subcontractor has paid all persons furnishing any labor, material, or services in furtherance of any Work furnished hereunder. Subcontractor's furnishing of such receipt, lien waiver, or release or any combination of them, shall be a condition precedent to Contractor's duty to make any payment hereunder. Moreover, no prior failure by Contractor or Owner to require any such receipt, release, or waiver or any combination of them shall limit Contractor or Owner is right to require any of them subsequently in relation to any payment application by Subcontractor.

Subcontractor accepts that prior to receiving payment, Subcontractor shall provide as part of Subcontract work all documentation necessary to Contractor for Contractor to apply for payment on behalf of Subcontractor.

Final payment shall be made to the Subcontractor thirty (30) days after completion of its work and acceptance and payment thereof by the Owner and upon the Contractor's receipt of the Subcontractor's General Release to the Contractor and Owner, and affidavits showing that all labor and material furnished by the Subcontractor or anyone employed by the Subcontractor has been fully paid for. No such payment shall be conclusive evidence of the Subcontractor's performance of all or any part of this Subcontract. The Subcontractor shall be fully responsible for all such obligations and any other claim or liens against it, its work, the Owner, the Contractor, the Construction or the premises involved, chargeable to the Subcontractor or its subcontractors. The Subcontractor's responsibilities under this agreement shall survive the completion and acceptance of its work and payment thereof. Subcontractor is required to execute and submit an executed original release to Contractor in exchange for partial and final payments. Releases will be provided by Contractor to Subcontractor.

All requisitions (including both partial and final) shall include the Subcontract Number & the job number as indicated in the body of this Agreement. Payment to the Subcontractor will not be released until the submitted requisition meets these requirements. Original requisitions along with weekly certified payrolls, daily labor reports and any other applicable paperwork must be sent to **ACS System Associates, Inc. located at 160 W Lincoln Avenue, Mt. Vernon, NY 10550, Tel: (914) 665-5800 Fax: (914) 664-8772.** If ACS does not receive said paperwork or if paperwork is incorrect, **ACS System Associates, Inc.** may choose, at their discretion, to hold 100% of Subcontractors new invoice(s). The Agencies hold us responsible for Payment of Prevailing Wages to the workers and compliance with PLA Contract (where applicable), hence, ACS System Associates, Inc. will periodically (approximately once a week) be requesting copies of cancelled payroll checks directly corresponding with specified payroll reports. Additionally, periodic field interviewing may be performed with your personnel. These procedures are necessary to ensure that all parties involved are in compliance with the Labor Laws. Please understand that ACS System Associates, Inc. is not implying any wrong doing by any subcontractor.

The Subcontractor agrees to furnish all labor, materials, tools, equipment, appliances and all other things necessary to complete the following described work in accordance with the terms of this Subcontract, and any and all

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general conditions, plans, specifications, amendments or addenda to same, or bulletins issued in connection therewith, and all drawings and details, and any and all other instruments comprising the Contract for the performance of the RIDER "A" - **SCOPE OF WORK** (attached).

All guarantees and warranties shall be in strict accordance with the Prime Contract documents but no instance will the warranty be for less than one (1) year after acceptance by the Owner.

FURTHER AGREED as follows:

- (a) Time is of the essence of this Subcontract.
- (b) The Subcontractor shall prosecute its work diligently and efficiently and set up and maintain such a rate of progress (subject to the Contractor's direction and control for purposes of coordinating the Construction but without limiting the Subcontractor's obligation hereunder) as shall enable the Subcontractor to complete its work in the manner and time required by the Contractor and the Contract.
- (c) The Subcontractor on its behalf, and on behalf of any of its subcontractors, hereby agrees to indemnify and hold harmless the Owner, Contractor, their agents, servants or employees, from any and all claims, losses, suits, damages, judgments, expenses, costs and charges of every kind and nature, both legal and otherwise, whether direct or indirect by reason of personal injuries, death or property damage to any persons or others caused by, arising out of, or occurring in connection with the work provided for under the terms of this subcontract, or due to the active affirmative negligence, passive negligence, or breach of any statutory duty on the part of the Subcontractor, its agents, servants or employees. No action or proceeding shall be maintained by Subcontractor, or any person or entity claiming under or on behalf of Subcontractor, against Contractor upon any claim arising out of or based on this Subcontract or by reason of any action, omission, or requirement imposed on Contractor unless such action is commenced within one (1) year after the filing and acceptance of a Certificate of Completion with the Owner, within one (1) year after final payment has been made to Subcontractor, or within one (1) year after final payment has been made to Contractor, whichever event occurs first.
- (d) Liquidated Damages: 1) The Subcontractor shall be responsible for liquidated damages to the extent provided for in the contract documents for delays caused by or contributed to by the Subcontractor or any person or entity for whose acts the Subcontractor may be liable, including all or a portion of any liquidated damages *actually* assessed by the Owner or against the Contractor attributable in whole or in part to such Subcontractor-caused delays; 2) In addition, the Subcontractor shall be responsible for actual damages to the Contractor caused or contributed to by delay caused by the Subcontractor or any person or entity for whom the Subcontractor is responsible and 3) In the event liquidated damages or actual damages, or both, are caused by the Subcontractor and another entity, the Contractor shall have the right to reasonably apportion said damages between the parties, and such apportionment shall be binding on the Subcontractor.
- (e) The Subcontractor shall pay all taxes, assessments and premiums under the Federal Social Security Act, any applicable Unemployment Insurance Law, Workmen's Compensation Law, Old Age Benefit Law, Sales Tax Law, Use Tax Law, Personal Property Tax Law or other applicable law, now or hereafter in effect, payable by reason of or in connection with any part of the Subcontractor's work.
- (f) Subcontractor shall also furnish, as required by Contractor in its sole, unaided option and discretion, such partial or final receipts, lien waivers, releases, verified payroll reports as Contractor deems necessary to ensure that Subcontractor has paid all persons furnishing any labor, material, or services in furtherance of any Work furnished hereunder. If required by Contractor, Subcontractor's furnishing of such receipt, lien waiver or release or any condition precedent to Contractor's duty to make any payment hereunder to Subcontractor.
- (g) All employees on the Subcontractor's work shall be members of unions having jurisdiction over the classification of the Subcontractor's work and shall work in harmony with other union labor employed on the Construction. Subcontractor agrees to defend and indemnify Contractor, Construction Manager, Owner, Architect/Engineer, and any of Contractor's other subcontractors and vendors against any grievance or claim relating to Subcontractor's use of labor to perform any portion of Subcontractor's Work.
- (h) All employees on the Subcontractor's work shall be members of unions having jurisdiction over the classification of the Subcontractor's work and shall work in harmony with other union labor employed on the Construction. Subcontractor agrees to defend and indemnify Contractor, Construction Manager, Owner, Architect/Engineer, and any of Contractor's other subcontractors and vendors against any grievance or claim relating to Subcontractor's

use of labor to perform any portion of Subcontractor's Work.

- (i) The Subcontractor shall be responsible for taking field measurements and verifying all dimensions that will affect the subcontractors work.
- (j) The Subcontractor shall do all cutting, fitting, and patching of its work that may be required to make its several parts come together properly, and to fit it to receive or be received by the work: of other contractors, shown or reasonably implied by the Contract Documents.
- (k) The Subcontractor shall dispose of all rubbish caused by its work, in such manner as may be designated by the Contractor.
- (l) The Subcontractor shall be fully responsible for (1) any defective or improper work or material, (2) any damages caused thereby, and (3) the repair or replacement of such work, materials, or damages, which repair or replacement shall be satisfactory to the Contractor, Owner, and Architect. Before proceeding with the work under this Subcontract, the Subcontractor will accurately check all previous and surrounding work done by other trades and determine the correctness of same, and failure on Subcontractor's part to detect and report in writing discrepancies to the Owner and Contractor will relieve the Owner and Contractor of any and all claims to recover cost, expenses, and damages resulting there from.
- (m) Subcontractor shall be responsible for the payment of any and all costs incurred by **ACS System Associates, Inc.**, including investigation costs and attorneys fees, resulting from prevailing wage investigations, violations, and/or litigation due to fault by Subcontractor.
- (n) The Contractor shall not be responsible for any delay or extra cost in the Subcontractor's work caused by the Contractor, Owner, any other subcontractor, or due to any cause whatsoever, except to any extent the Contractor may be paid extra or receive an extension of time for any such delay or extra cost with respect to the Subcontractor's work. All "no damage for delay" clauses set forth in the General Contract are incorporated into this Contract as if fully set forth herein.
- (o) Subcontractor shall obtain and maintain, at its own expense, all necessary licenses and permits pertaining to the Work and comply with all federal, state and local statutes, ordinances, laws, executive orders, rules, regulations and orders as may be applicable to it and to the Work or the performance thereof, including, but not limited to, those relating to environment, hazardous materials, safety, wages, discrimination and equal employment opportunity and pay any fines or penalties imposed for any violations thereof ("Legal Requirements"). Subcontractor shall promptly correct any violations of such statutes, ordinances, rules, regulations and orders committed by Subcontractor, its agents, servants and employees. Subcontractor shall establish, implement, and ensure abidance to all safety measures, policies, and standards conforming to those required or recommended by governmental or quasi governmental authorities having jurisdiction and by Contractor and Owner, including, but not limited to, any requirements imposed by the Contract Documents, which is incorporated herein.
- (p) The Subcontract Price shall not be subject to increase by reason of any changes in the cost of any of the items the Subcontractor agrees to furnish.
- (q) The Subcontract Price shall not be subject to increase by reason of any changes in the cost of any of the items the Subcontractor agrees to furnish.
- (r) If the Contractor should suspend operations and discontinue work on the construction at the direction of those designated by the Contract documents or due to any other cause without the contractor's fault or beyond its control, the Contractor may, at its option, thereupon terminate the Subcontract, in which event the Subcontractor shall not have any other or larger claim against the Contractor greater than the Contractor may have against the Owner with respect to the Subcontract.
- (s) This Subcontract shall be construed in accordance with the laws of the State of New York.

(t) **TERMINATION of Subcontract work**

By the Subcontractor

1. Subcontractor may terminate the Subcontract for the same reasons and under the same circumstances and procedures

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ACS System Associates, Inc.

with respect to the Contractor as the Contractor may terminate with respect with the Owner under the Contract. In the event of such termination by the Subcontractor for any reason which is not the fault of the Subcontractor, Sub-subcontractors or their agents or employees or other persons performing portions of the Subcontract work under contract with the Subcontractor, the Subcontractor shall be entitled to recover from the Contractor payment for Owner approved Subcontract work completed.

2. Payment to Subcontractor after termination by Subcontractor shall be contingent on Subcontractor work approval by the Owner, unless the right of the Subcontractor to termination is due solely to the fault of the Contractor; however, in any event Subcontractor shall **NOT** be entitled to recover for unexpended overhead, lost or unearned profits or damages under this Subcontract.

By the Contractor

Termination for cause

1. Should the Subcontractor at any time: 1) refuse or neglect to supply a sufficiency of properly skilled workmen or 2) refuse or neglect to supply materials of the proper quality or 3) fail in any respect to prosecute the Work with promptness and diligence or 4) fail in the performance of any of the agreements herein contained, the Contractor shall be at liberty after five (5) working days receipt of written notice to the Subcontractor to: a) terminate the employment of the Subcontractor for the Subcontract work; b) provide any such labor, materials, or data as is required by the contract and to deduct the cost thereof from any money then due or thereafter to become due to the Subcontractor under this subcontract or any other subcontract with this Contractor and; c) enter upon the project premises and take possession for the purpose of completing the Subcontract work included under this contract of all materials, tools, and appliance thereon and to employ any other person or persons to finish the Subcontract work and to provide the materials therefore.
2. Upon receipt of written notice of termination, the Subcontractor shall: 1) cease operations as directed by the Contractor in the notice; 2) take actions necessary, or that the Contractor may direct, for the protections and preservation of the work; and 3) except for Subcontract work directed to be performed prior to the effective date of termination and stated in the notice of termination, terminate all existing Sub-subcontracts and purchase orders and enter into no further Sub-subcontracts and purchase orders for the Subcontract work.
3. In the case the Subcontractor's employment is terminated for cause, the Subcontractor shall not be entitled to receive any further payment under this contract until all Subcontract work, including work completed after Subcontractor termination, shall be completed and approved by the Owner. In any case, if the reasonable expense incurred by the Contractor in finishing the Work exceeds the unpaid balance of the Subcontract, the Subcontractor shall pay the difference to the Contractor. The reasonable expense incurred by the Contractor shall include furnishing materials, managing the remaining Subcontract work, finishing the Subcontract work, and any expense or other damages incurred through such default. Under no circumstance shall the Subcontractor have any other or larger claim against Contractor greater than the Contractor may have against the Owner with respect to the Subcontract.

Termination for convenience

1. Contractor may, at any time prior to final payment, terminate this Subcontract for its convenience for any reason whatsoever, or for no reason, upon the giving of five (5) days written notice to Subcontractor without any default under the Subcontract documents. In no event shall Subcontractor be entitled to consequential damages or loss of profits on portions of the Work not yet performed.
2. If Contractor terminates this Subcontract for convenience, Subcontractor shall be entitled to be paid costs of Subcontract work performed and approved by the Owner to date and costs of proven loss with respect to project-specific materials and project-specific construction equipment/machinery already purchased, including 10% overhead and profit but in **no instance** shall the Subcontractor be paid more than the Subcontract sum. Proven loss may be demonstrated by payment receipts, similar documented evidence and audit of Subcontractor records.
3. In the event any termination of the Subcontractor for cause under this Subcontract is later determined to have been

improper, the termination shall be **automatically** converted to a termination for convenience, and the Subcontractor shall be limited in its recovery strictly to the compensation provided for in this section.

By the Owner

1. If the Owner terminates the Contractor's Contract for any reason then the Contractor will promptly deliver written notice to the Subcontractor.
2. Upon receipt of written notice of termination, the Subcontractor shall: 1) cease operations as directed by the Contractor in the notice; 2) take actions necessary, or that the Contractor may direct, for the protections and preservation of the work; and 3) except for Subcontract work directed to be performed prior to the effective date of termination and stated in the notice of termination, terminate all existing Sub-subcontracts and purchase orders and enter into no further Sub-subcontracts and purchase orders for the Subcontract work.
3. The Contractor and the Subcontractor shall abide by the terms of the Contract regarding payment to the Subcontractor upon Owner or termination of the Contract.

(u) **SUSPENSION of Subcontract work**

1. The Contractor may, without cause, order the Subcontractor in writing to suspend, delay or interrupt the Subcontract work in whole or in part for such period of time as the Contractor may determine. In the event of suspension ordered by the Contractor, the Subcontractor shall be entitled to an equitable adjustment of Subcontract time of performance.
2. The Contractor shall not be responsible for any delay or extra cost in the Subcontractor's work caused by the Contractor, Owner, any other subcontractor, or due to any cause whatsoever, except to any extent the Contractor may be paid extra or receive an extension of time for any such delay or extra cost with respect to the Subcontractor's work. Subcontractor's sole available remedy shall be an extension of time.
3. The Subcontract Price shall not be subject to increase by reason of any changes in the cost of any of the items the Subcontractor agrees to furnish due to Contractor suspension other than through separate agreement.

(v) **ASSIGNMENT of Subcontract work**

1. The Subcontractor shall not assign the Subcontract work, or subcontract the whole of this Subcontract, or assign or subcontract any portions thereof or any right to payment or other Subcontract right without the written consent of the Contractor. In the event the Subcontractor seeks to further subcontract portions of the Subcontract work, the Subcontractor shall furnish written notification to the Contractor in advance of such subcontracting.

(w) **Disputes between Subcontractor and Contractor**

This Subcontract shall be construed in accordance with the laws of the State of New York.

The Subcontractor agrees to continue performance of the subcontract work and shall proceed in accordance with the directives of the Contractor, under protest, in the event of a dispute or controversy. Failure to so proceed shall constitute a material breach of the contract, regardless of the ultimate decision on the dispute, it being understood and agreed that any controversy between the parties shall not be deemed a basis to delay or suspend the work, unless directed otherwise by the Contractor.

The Subcontractor hereby agrees to indemnify the Contractor for any and all costs, including attorneys' fees, of defending a claim by the Owner or any other party in the dispute resolution procedure if such claim relates to or arises from the Subcontract, from the Subcontractor's work, or from the Subcontractor's failure to prosecute its work.

Disputes

In any instance in which a claim exists between the Contractor and Subcontractor, the claim shall first be subject to non-binding mediation, per below. If there is no resolution from non-binding mediation then the dispute will be decided by either arbitration or litigation in the State of New York, at the Contractor's discretion. This Subcontract shall be interpreted under the laws of the State of New York.

Non-binding Mediation

Prior to the mediation the parties agree to an exchange of documents pursuant to requests for production of documents. The mediation shall be presented to the American Arbitration Association pursuant to the rules then in effect.

The cost of the mediation fees shall be shared evenly by both parties. Each party agrees to bear its own attorneys' fees associated with any mediation. The parties agree to be bound to and responsible for the award of the arbitrators for interest, mediation fees, costs, and attorneys' fees as determined by the arbitrators. Unless otherwise agreed, the mediation shall take place in Mount Vernon, New York.

Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

Arbitration

Claims not resolved by mediation may be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. Notwithstanding the current rules of the American Arbitration, the parties agree to limited discovery including the exchange of documents pursuant to requests for production of documents and the taking of depositions of the other party's representatives. Unless prohibited by law or otherwise agreed to by the parties, the arbitration shall take place in Mount Vernon, New York.

A demand for arbitration shall be made by writing and delivered to other party in this Subcontract within the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitations.

The cost of the arbitration shall be shared evenly by both parties. Each party agrees to bear its own attorneys' fees associated with any arbitration. The parties agree to be bound to and responsible for the award of the arbitrators for interest, arbitration fees, costs, and attorneys' fees as determined by the arbitrators.

Agreements reached in arbitration shall be enforceable as settlement agreements in any court having jurisdiction.

Litigation

Any litigation or action or proceeding shall either be filed in the county where the Project is located or in Westchester county, New York. For projects outside of the State of New York, any litigation or action or proceeding will be filed in Westchester county, New York.

Each party agrees to bear its own attorneys' fees associated with any Court action.

Actions must be commenced within statutes of limitation periods in NYS law.

(x) The Subcontractor shall not be entitled to extra compensation for any extra work of any kind whatsoever, regardless of whether the same was ordered by the Contractor or any of its representatives, unless such extra work order is given in writing signed by an officer of the Contractor: performance of any work by the Subcontractor without a written extra work order shall be deemed a waiver of any claim for extra compensation, regardless of any written or verbal protest. However, the Contractor and/or its representative reserves its rights to direct Subcontractor to perform the extra work during the time the change order amount is being negotiated. All extra work to the Contractor's account shall be done at cost plus 10%.

(y) The Subcontractor agrees to order the materials covered by this Subcontract at the earliest date possible and to issue instructions to any and all persons supplying it with material to make immediate deliveries thereof, either to the site of the project or the Subcontractor's shop, failure to comply with these provisions shall entitle the Contractor to invoke all the rights under Section (c) above.

(z) Mechanics Liens by Subcontractor, materialmen, suppliers or sub-Subcontractors

(A) Notice of non-payment

If at any point during the Project there is a claim by the Subcontractor or by any party claiming through the Subcontractor, that a payment is overdue, Subcontractor agrees to provide fifteen (15) days written notice to the Contractor of such claim prior to the filing of any lien. Because the failure to provide such notice deprives the Contractor of its ability resolve differences over claims for payment without legal involvement, and because the filing of such liens without such notice has a deleterious effect on the relationship between the parties and with the Owner, and since it would be difficult to determine the precise damages flowing from the failure to give such notice, upon the failure of the Subcontractor or any party claiming through the Subcontractor to provide such notice, the Contractor shall be entitled to liquidated damages in an amount equal to ten (10) percent of the amount of any such lien filed, it being agreed between the parties that quantifying such losses to Contractor is inherently difficult as they may cause Contractor to suffer reputational damage with Owner and others, as well as lead to delay in other aspects of the Project. The parties stipulate and agree that the sum set forth herein is not a penalty, but rather a reasonable measure of damages based on the parties' experience in the construction industry and given the nature of losses that may result from breach. Contractor shall be entitled to backcharge or otherwise assess the Subcontractor for such liquidated damages.

(B) Sub-subcontractor liens

The Subcontractor shall insure that the Project remains free and clear of claims and liens asserted by any of the Subcontractor's materialmen, suppliers or sub-subcontractors and further insures and warrants to Contractor that Subcontractor has in place written agreements with such persons and/or entities which are subject to and incorporate by reference the provisions of Subcontract incorporating all rights granted to Contractor herein. In the event that the Subcontractor's materialmen, suppliers or sub-subcontractors make a claim or file a lien against the project or in the event the Contractor has reason to believe that labor, materials or other obligations incurred in the performance of the Subcontractor's Work are not being paid, the Subcontractor shall have five (5) calendar days after the date of written notice from the Contractor to:

- a) supply evidence, to the satisfaction of the Contractor, in the form of a waiver and release of lien executed by the claimant attesting to the fact that the moneys owing to the claimant have been paid; or
- b) extinguish the lien from the project/property and provide a payment bond indemnifying the Owner, the Contractor and the Contractor's surety, if any, from liability pursuant to claim upon which the lien is based.

Upon the failure of the Subcontractor to do so, the Contractor is empowered in its sole discretion and without further notice to the Subcontractor, (a) to retain out of any payments due or to become due to the Subcontractor a reasonable amount to protect the Owner and the Contractor from any and all loss, damage or expense, arising out of or relating to any such claim or lien until the claim or lien has been satisfied by the Subcontractor (b) to resolve or pay the claim or lien, (c) to bond or otherwise satisfy and extinguish the lien and/or (d) to terminate the Subcontractor. The Contractor shall be entitled to recover from the Subcontractor all of its costs, including attorney's fees, in the exercise by it of any of its remedies set forth above.

(aa) As a condition to commencement of the Work and to any payment for the Work, Subcontractor shall furnish a certificate, satisfactory to Contractor, from each insurance company showing the required insurance to be in force and stating that the insurance will not be canceled or changed except upon at least thirty

(30) days advance written notice thereof to Contractor and General Contractor, other than cancellation for non-payment in which case ten (10) days written notice will be given to Contractor and General Contractor, or as otherwise required by the Contract Documents. The certificate shall name as Additional Insured's the following parties: **ACS System Associates, Inc.**, **«cusname»**, Subcontractor, Vendor, General Contractor, Architect, Owner, and these entities affiliates, members, officers. Directors, employees, agents, and servants, and any other parties required by the Contract Documents as Additional Insured's under the policies required herein and in the Contract Documents. The Subcontractor, and any of its subcontractors, shall maintain and pay for the following minimum insurance coverage or those required by the Contract Documents, whichever are higher: Commercial General Liability (CGL) with limits of Insurance of not less than \$1,000,000 each occurrence and \$2,000,000 Annual Aggregate: Business Auto Liability with limits of at least \$2,000,000 each accident: Employers Liability Insurance limits of at least \$1,000,000 each accident for bodily injury by accident and \$1,000,000 each employee for injury by disease. All insurance must be procured from insurance companies licensed, admitted and approved to do business in the state where the Project is located. If the Subcontractor fails to procure and maintain the required insurance, the Contractor shall have the right to procure and maintain said insurances for the Subcontractor, and the Subcontractor shall pay' the cost thereof.

(x) This Subcontract is contingent on an award of General Contract by Owner to Contractor, approval of the Contractor by Owner, and approval of the Subcontractor by the Owner.

(y) No other agreement or understanding concerning this Subcontract has been made, and no oral statements, understanding or agreement shall affect the terms herein of the Subcontract. This contract contains all the agreement between the parties hereto.

(AA) Safety-: Subcontractor shall perform all work in accordance with the Contractors approved HASP a copy will be provided on site for review. Subcontractor shall also sign the Contractor's approved Accident Prevention Plan/Hazard Communication Plan (APP/HCP) and it's Safety Policy Statement. In addition, all Subcontractors employees at the work site will have a minimum OSHA 10 Hour Training.

(BB) **ACS System** has a longstanding reputation for honesty and integrity in its business dealings and for its corporate policies promoting lawful and ethical behavior. **ACS System** is committed to upholding that reputation and has adopted a standard of business conduct policy statement which governs the action of all its employees. Pursuant to that Policy Statement, **ACS System** employees are Prohibited from accepting bribes or kickbacks in any form and, further, are prohibited from accepting goods or services provided by a subcontractor, supplier or vendor for the personal benefit of the employee, his or her relatives, or entity in which the employee or his or her relatives has a personal interest. This prohibition includes, but is not limited to work performed on an employee's residence and applies regardless of whether the beneficiary of the goods or services pays for them. Therefore, if the subcontractor offers or provides a bribe or kickback to any employee, or offers or provides goods or services to any employee, his or her relatives, or any entity in which the employee or his or her relatives has a financial interest. The Subcontractor will be considered to be in material breach of this subcontract. Subcontractor undertakes the commitment to advise **ACS System** of any action by any entity or person associated with the project that subcontractor believes violates any applicable law, rule or regulation. Subcontractor's violation of any of the foregoing shall be considered as subcontractor's failure to perform its obligations under the terms and conditions of this Agreement. Such failure shall be considered adequate and justifiable grounds for **ACS System** to effectuate its rights and remedies under the provision of Article (1) (m) - Default of this Agreement.

IN WITNESS WHERE OF, the parties hereto have caused this instrument to be executed by their duly authorized representatives the day and year first above written.

ACS System Associates, Inc.

BY: _____

Print Name: Ahmad Reyaz

«venname»

BY: _____

Print name: _____

Initial

Print Officer's Title: President

Print Officer's Title: _____

Subcontract Agreement Rider

(Contractor/Subcontractor)

1. **Indemnity.** In consideration of the Contract Agreement, and to the fullest extent permitted by law, the Subcontractor shall defend and shall indemnify, and hold harmless, at Subcontractors sole expense, the contractor, all entities the contractor is required indemnify and hold harmless, the Owner of the property, and the officers, directors, agents, employees, successors and assigns of each of them from and against all liability or claimed liability for bodily injury or death to any person(s), and for any and all property damage or economic damage, including all attorney fees, disbursements and related costs, arising out of or resulting from the Work covered by this Contract Agreement to the extent such Work was performed by or contracted through the Subcontractor or by anyone for whose acts the Subcontractor may be held liable, excluding only liability created by the sole and exclusive negligence of the Indemnified Parties. This indemnity agreement shall survive the competition of the Work specified in the Contract Agreement.

2. **Insurance.** The Subcontractor shall procure and shall maintain until final acceptance of the Work, such insurance as will protect the Contractor, all entities the Contractor is required indemnify and hold harmless, the Owner, and their officers directors, agents and employees, for claims arising out of or resulting from Subcontractors under this Contractor Agreement, whether performed by the Subcontractors, or by anyone directly or indirectly employed by Subcontractor, or by anyone for whose acts Subcontractor may be liable. Such insurance shall be provided by an insurance carrier rated "A-" or better by A.M. Best and lawfully authorized to do business in the jurisdiction where the Work is being performed.

2.1. The Subcontractor's insurance shall include contractual liability coverage and additional insured coverage for the benefit of the Contractor, Owner and anyone else the Owner is required to name (as set forth in the schedule below), and shall specifically include coverage for completed operations. The insurance required to be carried by the Subcontractor and any Sub-Sub- Contractors shall be PRIMARY AND NON-CONTRIBUTORY. With respect to each type of insurance specified hereunder, the Contractors and Owners insurances shall be excess to Subcontractors insurance.

2.2. The Subcontractor warrants that the coverage provided under the commercial general liability policy shall be written on an "occurrence" basis with coverage as broad as the Insurance Service Office Inc.'s form and the no policy provisions shall restrict, reduce, limit or otherwise impair contractual liability coverage or the Contractor's, Owner's (or others as required and as listed below) status as additional insured.

2.3. Not less than five (5) days prior to commencement of the Work and until final acceptance of the Work, Subcontractor shall provide Contractor with certificate(s) of insurance evidencing the required insurance coverage with the Subcontractor shall provide Contractor thirty (30) days prior written notice of a change or cancellation in coverage.

2.4. Unless otherwise stipulated in the Contract Agreement, the Subcontractor shall maintain no less than the limits specified for each of the following insurance coverages:

- a) Commercial General Liability using an industry standard unmodified coverage form including contractual liability with minimum limits of \$1,000,000 each occurrence, \$2,000,000 aggregate with either per

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- project or per location endorsement for property damage and both injury;
- b) Comprehensive Automobile Liability insurance with minimum limits of \$1,000,000 combined single each accident, including bodily injury and property damage liability;
- c) Workers Compensation and disability benefit insurance including Occupational Disease in the minimum amounts as required by the jurisdiction where the Work is performed
- d) Excess/Umbrella Liability insurance with limits of \$5,000,000 but not less than minimum limit of \$1,000,000 which is primary over the General Liability;

2.5. The Subcontractor engages a Sub- Subcontractor; it is the affirmative duty of the Subcontractor to ensure that any Sub-Subcontractor complies with the insurance and indemnification requirements of this Contract- Agreement

List of Indemnified Parties and Additional Insured's: Owner, Architect / Engineer, General Contractor (GC), Prime Contractor

Acknowledged by:

Contractor **ACS System Associates Inc.**

Subcontractor «venname»

Signature: _____

Signature _____

Name: Ahmad Reyaz

Name: _____

Title: President

Title: _____

Date: _____

Date: _____

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AUTOMATIC TEMPERATURE CONTROL

SCOPE OF WORK:

FURNISH LABOR AND MATERIALS FOR AUTOMATIC TEMPERATURE CONTROL WORK INCLUDING CONTROL WIRING PER PLANS & SPEC'S AND INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

- 1) Interlock wiring between Evaporator & Condensing Units, whether Low Voltage or Line Voltage for the Split Systems, wherever applicable.
- 2) Core drilling.
- 3) Fire stopping.
- 4) Submittals must include shop drawings locating Panels & other Control Devices.
- 5) Control wiring to be run in Galvanized or EMT conduits, strictly in accordance with Plans & spec's.
- 6) Electrical Sub contractor must be submitted and approved. Your Electrical Sub-contractor must pay Prevailing Wage Rates. On PLA jobs, PLA rules apply.
- 7) Scaffolding/ Scissor Lift as required for the contract work. If Scaffolding is provided by "G.C.", costs if required, to be shared by all trades using the Scaffolding.
- 8) Fire alarm coordination and presence at Fire Alarm Test, if required, must be included.
- 9) Absolute compliance with OSHA & Owner's Safety Rules/Regulations.
- 10) Retainage at 5% if Bond is given, 10% if no bond is given. Retainage to be released per Owner's Schedule.
- 11) As - Built /O & M Manuals/Attic Stocks per spec's must be received/approved prior to release of retainage.
- 12) AIA Breakdown must be submitted & approved prior to processing of any payment.
- 13)Control wiring for Boilers & HW Heater included
- 14)Furnishing , installing and wiring for Gas Detection System included.

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INSULATION

SCOPE OF WORK:

FURNISH LABOR AND MATERIALS FOR INSULATION WORK PER PLANS AND SPECIFICATIONS

INCLUDING FOLLOWING:

- 1) All work shown on the contract documents and falling within the jurisdiction of "Insulation Union".
- 2) Metal Jacketing where specified.
- 3) Insulation of exist. Piping & Ductwork after Asbestos Abatement, if specified.
- 4) Insulation/repairs of existing, if specified.
- 5) Fire stopping.
- 6) Rubbish to be collected at a central location designated by Owner/G.C.
- 7) Scaffolding/ Scissor Lift as required for the contract work. If Scaffolding is provided by "G.C.", costs if required, to be shared by all trades using the Scaffolding.
- 8) Absolute compliance with OSHA & Owner's Safety Rules/Regulations.
- 9) Retainage at 5% if Bond is given, 10% if no bond is given. Retainage to be released per Owner's Schedule.
- 10) AIA Breakdown must be submitted & approved prior to processing of any payment.
- 11) PO is subject to approval from Owner/Engineer

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SHEET METAL

SCOPE OF WORK:

FURNISH LABOR AND MATERIALS FOR SHEET METAL WORK PER PLANS AND SPECIFICATIONS

INCLUDING FOLLOWING:

- 1) In case Shop Drawings are made by ACS/Others, it is your responsibility to check, confirm & modify, if necessary, per field conditions.
- 2) Co-ordination of shop drawings with other trades, attend co-ordination meetings.
- 3) All work shown on the contract documents and falling within the jurisdiction of Sheet Metal Union
- 4) Standby labor for rigging.
- 5) Equipment, Air Outlets, VAV Boxes, Motorized Dampers, Smoke Dampers, Fire Smoke Dampers, Louvers will be furnished by ACS. These will be handled and installed by sub contractor. Fire Dampers and other Manual/Splitter Dampers/OBD's are to be furnished and installed by Sub Contractor.
- 6) Supplementary Steel, Equipment Stand /Supports.
- 7) Installation of Seismic hangers and supports.
- 8) Disassembling/Assembling of Equipment, if required to facilitate rigging/installation.
- 9) All ducts to come to jobsite with open ends capped using plastic. Installed ducts in field will have no open ends. Open end to be capped at the end of every day work.
- 11) Rubbish to be collected at a central location designated by Owner/G.C.
- 10) Scaffolding/ Scissor Lift as required for the contract work. If Scaffolding is provided by "G.C.", costs if required, to be shared by all trades using the Scaffolding.
- 12) Absolute compliance with OSHA & Owner's Safety Rules/Regulations.
- 13) Retainage at 5% if Bond is given, 10% if no bond is given. Retainage to be released per Owner's Schedule.
- 14) As- Built & O & M Manuals per spec's must be received/approved prior to release of retainage.
- 15) AIA Breakdown must be submitted & approved prior to processing of any payment.
- 16) PO is subject to approval from Owner/Engineer

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STEAMFITTER PIPING

SCOPE OF WORK:

FURNISH LABOR AND MATERIALS FOR STEAMFITTER PIPING WORK PER PLANS AND SPECIFICATIONS INCLUDING FOLLOWING:

- 1) In case Shop Drawings are made by ACS/Others, it is your responsibility to check, confirm & modify, if necessary, per field conditions.
- 2) Co-ordination of shop drawings with other trades, attend co-ordination meetings.
- 3) All work shown on the contract documents and falling within the jurisdiction of Steamfitter Union .
- 4) AC Units will be hung by "OTHERS"
- 5) Install Equipment & specialities furnished by ACS. Strainers to be furnished & installed by sub-contractor.
- 7) Installation of Seismic hangers and supports.
- 8) Testing, cleaning & flushing.
- 9) Install labels & valve tags (Labels & Valve Tags to be furnished by ACS).
- 10) Disassembling/Assembling of Equipment, if required to facilitate rigging/installation.
- 11) Witness Testing as required by Owner/Owner's representative.
- 12) Rubbish to be collected at a central location designated by Owner/G.C.
- 13) Scaffolding/ Scissor Lift as required for the contract work. If Scaffolding is provided by "G.C.", costs if required, to be shared by all trades using the Scaffolding.
- 14) Absolute compliance with OSHA & Owner's Safety Rules/Regulations.
- 15) Retainage at 5% if Bond is given, 10% if no bond is given. Retainage to be released per Owner's Schedule.
- 16) As-Built & O & M Manuals per spec's must be received/approved prior to release of retainage.
- 17) AIA Breakdown must be submitted & approved prior to processing of any payment.
- 18) PO is subject to approval from Owner/Engineer

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Subcontract No. ____«jobnum»_
Cost code _____

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