

**CAM INC**

P.O. BOX 231  
WOODBURN, OR 97071  
(503)680-8711

Project: \_\_\_\_\_

This Agreement made and effective as of this date \_\_\_\_\_, by and between CAM INC. and \_\_\_\_\_,(Subcontractor).

**1. THE WORK.**

1.1 Subcontractor shall provide and pay for all labor, materials, supplies, equipment, tools, scaffolds, hoisting, supervision and other services or things necessary to perform the following work ('the Work'), and shall warrant and guarantee that Work in all respects as is required of CAM INC and in accordance with the provisions of the Principal Contract.

**Work:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

1.2 The Contract Documents for this Subcontract consist of the bid submitted by Subcontractor, together with all changes, additions or modifications under this agreement.

The scope of the Contract Work shall consist of all work necessary or incidental to complete the above Work for the Project in accordance with and reasonably inferable from the Contract Documents as being necessary to produce the intended results and as more particularly, though not exclusively, as specified in the Contract Documents.

Subcontractor shall obtain and pay for all licenses, inspections and permits required by any public authority, and shall comply with all applicable codes, in connection with Subcontractor's work.

**2. PRICE.** Subcontractor agrees to accept as full compensation for its performance, including all taxes, fees, license, permits, assessments and premiums relating to the Work, and for all risks of every description connected with the Work, payment of the following:

\_\_\_\_\_  
\_\_\_\_\_.

**3. TIME OF PERFORMANCE.** The Work shall be commenced on or before \_\_\_\_\_, substantial completion of the Work shall occur not later than \_\_\_\_\_, and final completion of the Work shall occur not later than \_\_\_\_\_.

**4. PAYMENT.**

4.1 Progress payments. Progress payments, if any, shall be made only upon applications approved by the Owner, and receipt of such payments from Owner on account of Subcontractor's performance shall be a condition

precedent to any payment by CAM INC to Subcontractor. CAM INC shall be entitled to withhold five percent (5%) as retainage from all progress payments. As a condition precedent to receiving each progress payment, Subcontractor must deliver to CAM INC at its Woodburn, Oregon office an application for payment.

4.2 Final payment. Final payment, including any retainage, shall become due 45 days after the Project has been completed and accepted by the Owner, and retainage has been released to CAM INC. Partial or final payment shall not be due until Subcontractor has delivered to CAM INC a complete release, conditioned only on receipt of such payment, of all claims, bond claims, liens and rights to lien arising out of or relating to this Agreement or the Work. Acceptance of final payment by Subcontractor constitutes a waiver of all claims against CAM INC, its surety, Owner and the premises in connection with the Work, unless specifically excepted in writing prior to such payment. It is expressly understood that payment from Owner to CAM INC on account of Subcontractor's performance is a condition precedent of any and all payments from CAM INC to Subcontractor, without regard to the reason for any delay or non-payment by Owner.

4.3 Setoff. CAM INC may deduct from any moneys due or to become due to Subcontractor any sum or sums owed by Subcontractor to CAM INC shall also have the right to retain out of any sums due or to become due to Subcontractor hereunder an amount sufficient to completely protect from any and all loss, cost, damage or expense, including without limitation Attornev fees.

4.4 Subcontractor's Payments; Indemnity. Subcontractor shall timely pay its financial obligations to third parties in connection with the Work. No moneys shall be deemed as earned or owing until Subcontractor has paid all obligations incurred for labor, materials, equipment, supplies and any other obligation (including taxes, premiums, fees and other assessments) incurred in connection with the prosecution of its work which might be asserted as a claim against Owner, CAM INC or CAM INC's surety, or a lien against the property or improvement. Any moneys remaining unpaid, whether from monthly progress estimates or final payment, shall be considered as held by CAM INC as trust funds for the benefit of any laborer, materialman or other creditor who may have such claim or lien until it is paid.

Subcontractor shall defend and hold CAM INC and Owner harmless from any lien or claim arising out of nonpayment by Subcontractor of obligations incurred in connection with the Work covered by this Agreement.

4.5 Payment Not Acceptance. Partial or final payment to Subcontractor shall not operate as an approval or acceptance of work performed or materials furnished, it being agreed that acceptance shall occur only when the work is finally accepted by formal action of Owner. All prior partial payments are subject to correction in the final payment.

4.6 Condition. It is expressly understood that payment from Owner to CAM INC is a condition precedent of any and all payments from CAM INC to Subcontractor, without regard to the reason for any delay or non-payment by Owner.

4.7 Final Accounting. Subcontractor shall present to CAM INC, at the time of final payment hereunder (or under each and every Work Order), a detailed and itemized written full and final statement of its claims and accounts, claimed under this Subcontract (or the specific Work Order for which final payment is being requested), and all matters and facts not presented in such statement shall be considered waived by Subcontractor.

## **5. CONTRACTOR'S RIGHTS.**

If Subcontractor fails upon 24 hours advance written notice to correct defective work, or fails to promptly and expeditiously carry out the Work in accordance with this Agreement, the CAM INC may, by written order, require Subcontractor to stop the Work, or any portion thereof, or may CAM INC to exercise this right for the benefit of Subcontractor or any other person or entity.

**6. SUBCONTRACTOR'S OBLIGATIONS.** Subcontractor shall supervise and direct the Work, using its best skill and attention, and shall be solely responsible for all construction means, methods, procedures, and for coordinating its Work with any work of Owner, CAM INC and other contractors, subcontractors and suppliers in connection with the Project. The Work shall be performed according to the highest trade practices and standards by careful, competent and efficient workers who shall be satisfactory to CAM INC, and in accord with all applicable codes, laws, ordinances and regulations.

6.1 Warranty. Subcontractor warrants to CAM INC that all materials, appliances and equipment incorporated into the Work will be new and that all work, materials, appliances and equipment will be of good quality, free from faults and defects and in conformance with this Agreement. All work not conforming to these requirements may be considered defective.

6.2 Notices; Compliance; Permits. Subcontractor shall give all notices and comply with all laws, ordinances, codes, rules, regulations and lawful orders of any public authority bearing on the performance of the Work, and shall promptly notify CAM INC if requirements of this Agreement are at variance therewith. Subcontractor shall secure and pay for all necessary permits, approvals, assessments, and charges required by any public authority in connection with the Work.

6.3 Cleanup. Subcontractor at all times shall continuously keep the premises free from accumulation of waste materials or rubbish, and both daily and at completion of the Work shall remove all his waste materials and rubbish from and about the Project.

## 7. MISCELLANEOUS; SAFETY.

7.1 Time of Essence. All time limits stated herein are of the essence of this Agreement.

7.2 Risk of Loss. Until acceptance of the Project by Owner, the Subcontractor will be responsible for any loss, damage, spoilage or waste to its Work, materials, materials furnished by CAM INC to Subcontractor, equipment or supplies, due to any cause, except when, by the terms of the Principal Contract, Owner bears the risk, or by the terms of this Agreement, CAM INC bears the risk. Upon completion, Subcontractor shall promptly return to CAM INC all materials furnished by Owner or CAM INC and not used for the Project.

7.3 Compliance with Laws; Safety. Subcontractor shall carry on its Work in a safe manner, and shall comply with all applicable federal, state and local laws, regulations, standards, and recognized trade practices for the protection and safety of its employees and other persons about its Work, including without limitation those governing labor, safety, health, sanitation, and protection of the environment.

7.4 Safety; Indemnity. Subcontractor is solely responsible for protection and safety of its employees, for final selection of safety methods and means, and for establishing, supervising, inspecting and enforcing its safety obligations in accord with this Agreement and applicable law. Subcontractor shall promptly comply with any directives of CAM INC relating to safety. Failure by CAM INC to stop unsafe practices shall not relieve Subcontractor of any of its responsibilities, nor shall any exercise of CAM INC's rights hereunder make CAM INC responsible for any of Subcontractor's safety obligations.

Subcontractor shall defend and indemnify CAM INC, its agents and employees from all claims arising out of or relating to Subcontractor's obligations under sections 8.3 and 8.4, regardless of whether CAM INC has assisted or advised Subcontractor in fulfilling such responsibilities.

7.5 Applicable Law; Venue. The laws of the State of Oregon shall govern as to all matters arising out of or relating to this Agreement, or its breach, and any action or arbitration hereunder shall be brought and maintained in Marion County, Oregon.

7.6 Subletting and Assignments. Subcontractor shall not sublet or assign this Agreement, or any part thereof, without the written consent of CAM INC, which consent may be withheld in CAM INC's sole discretion. This Subcontract is personal in nature and CAM INC has relied on Subcontractor's reputation, skill, experience, equipment, personnel, contacts and expertise in letting this Subcontract.

7.7 Independent Contractors. Subcontractor represents, warrants and understands that it is an independent contractor and employing unit, duly licensed to perform the Work (including without limitation state contractor registration), subject to all applicable Social Security, Unemployment Compensation and Workers' Compensation statutes, and shall keep records and make reports and payments of all taxes or contributions required. Subcontractor agrees to indemnify, defend and hold CAM INC harmless from any expenses or liability incurred under such statutes in connection with employees of Subcontractor, including without limitation a sum equal to benefits paid to Subcontractor's employees when such benefits are charged to CAM INC under any merit plan compensation scheme or reserve account.

If any Work hereunder is performed by principals of Subcontractor who are not covered by Workers' Compensation, the principals agree that they shall have no claim against CAM INC, its insurers or its Workers'

Compensation coverage in the event they are injured while performing such Work.

## **8. INDEMNITY.**

8.1 To the fullest extent of the law, subcontractor agrees to defend, indemnify, and hold CAM INC harmless and, if requested by CAM INC, the Owner, their consultants, agents and employees of any of them, from and against any and all claims, suits, losses or liability, including attorneys' fees and litigation expenses, for or on account of injury to or death of persons, including subcontractor's employees, subcontractor's subcontractors or their employees, or damage to or destruction of property, or any bond obtained for same, but only to the extent that the injury or damage is caused by the subcontractor's negligence or by the negligence of those acting on behalf of the subcontractor.

8.2 Subcontractor's indemnification and defense obligations hereunder shall extend to Claims occurring after this Agreement is terminated as well as while it is in force, and shall continue until it is finally adjudicated that any and all actions against the Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable Laws.

8.3 Subcontractor acknowledges and represents that he has made an on-site inspection of the Premises and the work area so as to be familiar with all conditions, which may affect the safety and health of its employees as well as those of its Subcontractors. Subcontractor and all of its employees shall follow all applicable safety and health laws and requirements pertaining to its work and the conduct thereof, but not limited to, compliance with all applicable laws, ordinances, rules, regulations, and orders issued by a public authority, whether federal, state or local, including OSHA and any safety measures required by Contractor CAM INC. CAM INC. reserves the right, but not the obligation, to inspect the safety work performance of Subcontractors to ascertain their compliance with these applicable safety provisions. Notwithstanding the foregoing, Subcontractor, as an independent contractor, is solely responsible for controlling the manner and means by which it performs the Work pursuant to this Agreement. Unless otherwise agreed to by the parties in writing, Subcontractor shall provide all safety equipment, materials, tools and personal protection equipment necessary to perform the work in a safe, healthful and workmanlike manner. Subcontractor shall immediately report to Contractor all accidents, occupational injuries, and illness involving its employees or those of its Subcontractors, relating to the Work or which cause any injury to a third party or which cause damage to the property of Owner, Contractor or a third party. Subcontractor shall promptly furnish to Contractor copies of any worker's compensation report of injury or illness forms filed by any of its employees or those of its Subcontractors and when requested, assist Contractor in any investigation it may conduct of any such accident, injury or illness.

**9. INSURANCE; BONDS.** Prior to starting the Work, Subcontractor shall procure, pay for and thereafter maintain such insurance as will protect against claims for bodily injury or death, or for damage to property, which may arise out of operation by Subcontractor or by any sub-subcontractor or by anyone employed by any of them, or by anyone for whose acts any of them may be liable. The insurance required of Subcontractor, as stipulated in 9.1, 9.2, 9.3, 9.4 and 9.5, must be issued by insurance companies licensed and admitted to conduct business in the State of Oregon. Such insurance will be subject to the approval of CAM INC, which will not be unreasonably denied. Such insurance shall include, but not be limited to, the following minimum coverage and limits of liability or, is greater than the coverage and limits required of CAM INC by the OWNER with respect to the work to be performed under this agreement:

9.1 Commercial General Liability Insurance. Applicable to all Premises-Operations and including Blanket Contractual Liability applicable to Subcontractor's indemnity obligation under Article 8, and other contractual indemnities assumed by Subcontractor under this Agreement; Personal Injury with Employment Exclusion deleted; Owners' & Contractors' Protective Liability; Broad Form Property Damage including Completed Operations; Products/Completed Operations Liability, all with limits of liability of not less than \$1,000,000.00. 9.2 Comprehensive Automobile Liability Insurance. Applicable to any automobile, including owned, nonowned and hired automobiles, with limits of liability of not less than \$1,000,000.00 combined single limit for 9.3 Statutory bodily injury and property damage per occurrence. Worker's Compensation Insurance and Employer's Liability. Such Workers' Compensation

Insurance must satisfy and be in accordance with the workers' compensation statutes of the State(s) in which the Subcontractor conducts operations hereunder. The limit of liability for Employer's Liability shall not be less than \$1,000,000.00 each accident, \$1,000,000.00 disease policy limit, \$1,000,000.00 disease, each employee.

9.3.1 Policies. Commercial General Liability, Comprehensive Automobile Liability and Employer's Liability insurance may be arranged under single policies for full minimum limits required, or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability Policy.

9.4 Certificates of Insurance; Additional Named Insured. Subcontractor shall endorse its Commercial General Liability, Comprehensive Automobile Liability, Umbrella/Excess Liability and all other insurance policies (except workers' compensation) to include CAM INC and the Owner as 'additional injured.

9.4.1 Subcontractor shall not cancel any policies or insurance required hereunder, either before or after completion of the Work, without written consent of CAM INC.

9.4.2 All insurance policies shall contain a provision that coverage afforded thereunder shall not be canceled or non-renewed, or restrictive modifications added, without thirty (30) days prior written notice to CAM INC. Certificates of Insurance shall be filed with CAM INC prior to start of Subcontractor's Work. Such Certificates of Insurance shall be in a form reasonably acceptable to CAM INC and shall provide satisfactory evidence that Subcontractor has complied with all insurance requirements.

9.4.3 In the event that the Subcontractor sub-subcontracts any portion of the Work the Subcontractor will require its subcontractors to conform to all the provisions of Article 10, Insurance.

9.5 CAM INC may, at its sole option, upon failure of Subcontractor to comply with this section, attempt to purchase additional insurance to aid in covering the risks as specified above, pay the premiums therefor and charge them to Subcontractor.

9.6 Bonds. Upon request in writing by CAM INC, Subcontractor shall obtain and deliver to CAM INC, at CAM INC's expense and prior to commencement of any Work, performance and payment bonds in forms and executed by a corporate surety reasonably acceptable to CAM INC in the penal sum equal to the Subcontract amount. Changes in the work and requests for extra work may be made upon Subcontractor without the necessity of securing the consent of surety.

## **10. CHANGES; NOTICES; DISPUTES; DELAYS; CLAIMS.**

10.1 Subcontractor shall be bound by any changes, alterations, or extra work directed by Owner under the General Contract, including changes in sequence or scheduling or the amount or character of the Work, or any part thereof, to the same extent that is bound by the Principal Contract.

10.2 Notice of Claims. Subcontractor shall give CAM INC immediate written notice of any asserted change, changed condition, extra or additional work, claimed damages or dispute, sufficient to allow CAM INC to analyze and, if appropriate, take action or give instructions regarding the condition, and to timely comply with any notice requirements of the Principal Contract.

10.3 Disputes. Subcontractor shall be bound by any dispute resolution, mediation and arbitration provisions in the Principal Contract in the same manner and method as CAM INC is bound to Owner.

10.3.1 Mediation. In the event of a dispute between the parties arising out of or relating to this Subcontract, the parties agree to submit such dispute to a mediator agreed to by the parties as soon as practicable after the dispute arises, and preferably before commencement of litigation or arbitration. The parties agree to exercise their best efforts in good faith resolve all disputes in mediation, including without limitation disputes involving other participants in the Project in a combined mediation.

**11. WARRANTY.** In addition to its other obligations hereunder, Subcontractor shall promptly correct any work rejected by CAM INC or Owner as defective or as failing to conform to this Agreement, whether observed before or after completion, and shall promptly correct any work found to be defective or nonconforming within a period of one year from the date of final completion and acceptance of the Project by Owner.

## **12. TERMINATION; DEFAULT; SUSPENSION.**

12.1 Default; Termination. If the Subcontractor commits any material breach, persistently fails or neglects to carry out the Work in accordance with this Agreement, fails to perform any provision of this Agreement, fails to

prosecute the Work continuously with sufficient laborers and equipment to ensure its completion within the time specified for completion, or shall be dissolved, have entered against it an order for relief in an involuntary case under the Federal Bankruptcy Laws or commence a voluntary case thereunder, make an assignment for benefit of creditors or petition to take advantage of any state or federal insolvency statute, or fail to pay its obligations as they become due, or shall by any other act or omission give CAM INC or Owner reasonable cause to doubt Subcontractor's ability to timely, fully, and properly execute its obligations hereunder or if for any other cause or reason whatsoever Subcontractor shall fail to fully perform its obligations hereunder, such act or omission shall constitute a default. CAM INC may, after forty-eight (48) hours written notice to Subcontractor and without prejudice to any other remedy he may have, make good deficiencies and may deduct the cost thereof from any sums which are or may become due to the Subcontractor under this Agreement or otherwise or, at CAM INC's option, terminate this Agreement and finish the Work as CAM INC deems appropriate. No forty-eight (48) hour or other notice of default shall be required if Subcontractor's failure or breach relates to maintaining a safe workplace, or to life/health/safety issues, or if Subcontractor's failure or breach is of the same or similar type as that for which a prior notice of breach has been given to Subcontractor. If the unpaid balance of the Contract price hereunder exceeds the expense of finishing the Work, such excess shall be paid to the Subcontractor, but if such expense exceeds such unpaid balance, the Subcontractor shall pay the difference to CAM INC.

12.2 CAM INC may give notice in writing of a default under Section 12.1, specifying such default, and if Subcontractor, within a period of forty-eight (48) hours after receipt of such notice, shall not remedy such default, then CAM INC shall have full power and authority, subject to any rights of a trustee in bankruptcy under the Federal Bankruptcy Act, without process of law and without terminating or violating this Agreement, to take the prosecution of all or any portion of the Work out of the hands of Subcontractor and complete it with its own forces or otherwise, or use such other measures as in CAM INC's opinion are necessary for its completion. In taking over such Work, CAM INC may take over the plant, property, and equipment of Subcontractor to complete the performance thereof, or may supplement Subcontractor's work forces and equipment with those of CAM INC's own or others, all at the expense of Subcontractor. Neither by the taking over of such Work, or any portion of such Work, nor by the completion of such Work in accordance with the terms of this provision, shall CAM INC forfeit its right to recover damages from Subcontractor or from Subcontractor's surety for failure to complete or for delay in such completion. Should the expense incurred by CAM INC in taking over and completing such Work, or any portion of such Work, be less than the sum that would have become payable for the Work if the Work had been completed by Subcontractor, then Subcontractor shall be entitled to the difference, with no interest; and should such expense exceed such sum, then Subcontractor and Subcontractor's surety shall be liable to CAM INC for the amount of such excess. Upon the taking over of such Work by CAM INC as herein provided, no further payment shall be made to Subcontractor until such Work is completed, and any moneys due or that may become due to Subcontractor for the Work shall be withheld and may be applied by CAM INC to payments for the prosecution of such Work. CAM INC's decision to take *over* such Work shall not constitute CAM INC's sole remedy or an election of remedies; rather, CAM INC reserves all other remedies available at law or in equity.

12.3 Termination for Convenience; Suspension CAM INC may terminate this Agreement in whole or in part at any time by written notice to Subcontractor. In such event, Subcontractor shall be entitled only to *recover* its reasonable direct costs incurred prior to the termination plus a reasonable allowance for overhead and profit on work actually performed, plus reasonable demobilization expenses, but Subcontractor shall be entitled to no other costs or damages; provided, however, the total sum payable shall not exceed the adjusted Subcontract price less previous payments.

12.4 In the event Owner for any cause suspends or terminates all or any portion of the work under the Prime Contract, CAM INC may order Subcontractor to suspend or terminate related Work under this Subcontract. Subcontractor shall not be entitled to any additional compensation or damage for such suspensions or terminations except to the extent CAM INC receives additional compensation from Owner under the provisions of the Prime Contract for work covered by this Subcontract. Subcontractor shall not be entitled to profit on its costs attributable to any suspension of work.

13. SEVERANCE. Should any provision or portion there of of this Agreement at any time be in conflict with any law, ruling or regulation or be unenforceable for any reason, then such provision shall continue to be in effect only to the extent that it remains valid. In the event any provision of this Agreement becomes less than fully operative, the remaining portion thereof and all other provisions of this Agreement shall, nevertheless, remain in full force and effect.

14. **BINDING EFFECT; NOTICE.** All written notices required under this Agreement shall not be effective until Subcontract Agreement has been signed by both parties.

15. **FINAL AGREEMENT; MODIFICATION; SUCCESSORS.** This Subcontract is the final and entire agreement of the parties and supersedes all prior and contemporaneous oral or written communications or agreements between the parties. There are no promises, terms, conditions or obligations other than those contained herein. This Subcontract shall not be supplemented or modified in any way except by a duly executed Work Authorization or Change Order, or in a writing signed by the party against whom the modification is asserted. This Subcontract shall bind the parties, their successors and permitted assigns as of its effective date, regardless of whether it was executed on such date.

16. **ATTORNEY FEES.** In the event of any dispute between CAM INC and Subcontractor arising out of or relating to this Agreement, the prevailing party shall be entitled, whether or not a suit, action, or agreed arbitration proceeding is instituted, to recover all its costs and expenses incurred in connection with the dispute as set by the court or arbitrators, including without limitation reasonable attorneys' and expert witness fees, whether during arbitration, at trial, on appeal or denial of any petition for review, or in connection with enforcement of any judgment.

17. **HEADINGS.** Subcontract section headings are for organization only, and are not to be construed as a part of this Agreement.

**ENTERED INTO AND EFFECTIVE AS OF THE DATE FIRST WRITTEN ABOVE.**

**CAM INC.**

**Signed:** \_\_\_\_\_

**Signed:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**CCB#** \_\_\_\_\_