

MAGNUM ENTERPRISES, INC.

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California Contractors License # 436517

**SIGN & RETURN
TO MAGNUM**

MASTER SUBCONTRACT AGREEMENT

VENDOR NUMBER

SUBCONTRACTOR NAME

BUSINESS ADDRESS

CITY, STATE, ZIP

BUSINESS PHONE

BUSINESS FAX

SUBCONTRACTOR TO COMPLETE THIS SECTION ↓

E-MAIL(S) CONSTRUCTION:

ACCOUNTING:

EMERGENCY CONTACT NAME

(PLEASE PRINT OR TYPE)

EMERGENCY 24-HOUR CONTACT PHONE

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SAMPLE

MASTER SUBCONTRACT AGREEMENT:

This Master Subcontract Agreement (hereinafter called the "Agreement") is entered into by and between

(hereinafter called the "Subcontractor") and MAGNUM ENTERPRISES INC. (hereinafter called the "Contractor") covering work to be done at:

"Master Subcontract Agreement" - Various Projects

This Agreement in its entirety shall be in force from the time of its mutual execution by the Contractor and the Subcontractor and until such time that it is either mutually rescinded, in writing, by the Contractor and Subcontractor or if Contractor alone revokes, in writing, this Agreement.

This Agreement is applicable to all Work performed hereunder and authorized for commencement with the issuance by the Contractor of a Project Agreement. Signature and return of this Agreement constitute the entire Agreement unless otherwise agreed to, in writing, by the Contractor Representative who signed the Project Agreement. No verbal or Subcontractor proposals will be considered part of the Agreement or the Project Agreement.

PRINCIPLES AND DEFINITIONS

- The "Contract Documents" shall consist of the Master Subcontract Agreement, the Project Agreement issued and excepted by Contractor to Subcontractor prior to the commencement of work, the Drawings, the Specifications and bidding Instructions (including all modifications thereof issued prior to execution of the Construction Contract), miscellaneous accounting forms, Conditions of the contract (general, supplementary and other conditions), all Addenda issued prior to and all Modifications (Change Orders) issued after execution of the Construction Contract, and any supplement to the Construction Contract issued by Owner thereafter. An enumeration of the Contract Documents will be included in any issued Project Agreements. Commencement of work shall constitute an agreement to the terms and conditions of both Agreements. Commencement of work shall not waive any other requirements.
- Whenever the term "Architect" is used, reference is made to the person who has supervised the preparation of all drawings, specifications, addendum, etc., and whose name appears on the drawings and on the "Title Page" of the Specifications.
- As used herein the term "Owner" means the party or parties with which whom the general contractor has contract.
- Whenever the term "Owner's Representative" is used herein reference is made to the Owner's Construction Department project representative and whose duty will be to represent the Owner at the site.
- The term "Work" includes labor or material, or both, and equipment to produce the construction required by the Contract Documents.
- As used herein the term "Landlord" means any third party owning a whole or partial interest in the premises where the work is being performed from which Owner is leasing the premises.

1.0 GENERAL CONDITIONS

1.1 Subcontractor agrees to promptly commence the Work, to diligently and continuously prosecute such Work, and to coordinate the Work (including all submittals relating to the Work) with other work being done on the Project by other trades, all in accordance with Contractor's instructions, to Contractor's satisfaction and in accordance with Contractor's progress schedule and any amendments thereto, so that Contract shall not be delayed by any act or omission of Subcontractor in completion of the Project within the time specified in the Contract Documents.

1.2 Time is of the essence of this Agreement, and to each and every obligation of the Subcontractor hereunder, and Subcontractor, in agreeing to complete the Work within the times and

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- sequences herein mentioned has taken into consideration and made allowances for all the hindrances and delays incident to the Work.
- 1.3 *Strict adherence to the project schedule is mandatory. This schedule may require extended hours and weekends that will be considered a part of this Agreement. It is solely the responsibility of the subcontractor to ascertain the project schedule and completion date as it relates to the scope of work prior to preparing bids or signing and accepting the Project Agreement. An updated schedule will be posted in the jobsite office for Subcontractor review when such office exists, otherwise, upon written request one will be provided.*
 - 1.4 *A project schedule shall be developed by Contractor, which shall schedule and coordinate the times required for each area of work on the project. Subcontractor shall participate and cooperate in scheduling the times and sequences required in Subcontractor's area of work and hereby agrees to perform such Work in accordance with the schedule including all amendments thereto. Subcontractor shall continuously monitor the schedule and advise Contractor of the status of Subcontractor's progress on a regular basis, including information on the status of shop drawings, samples, submittals, and materials or equipment which may be in the course of preparation or manufacture.*
 - 1.5 *Subcontractor shall immediately notify Contractor of any circumstances which may affect the times and sequences in the schedule, and shall make all requests for extensions of time or related cost in writing to contractor within one (1) day after first observing the occurrences causing the delay, or within the time period required as necessary in order to permit Contractor to forward such request to Owner within the time period required by the Contract Documents, whichever is earlier. Failure to give written notice as required herein shall constitute a waiver by the Subcontractor of any right to an extension or costs related to such delay. Subcontractor acknowledges that it shall carefully study the Contract Documents prior to submittal of its Bid, and agrees that the Contract Documents are sufficient to have enabled Subcontractor to determine the cost of the Work in order to enter into the Agreement, that at the time of execution of the Agreement, Subcontractor is not aware of any errors, inconsistencies or omissions therein which it has not reported to Contractor, and that the Specifications and Contract Drawings are sufficient to enable it to perform the work and fulfill all of its obligations under the Agreement.*
 - 1.6 *In the event that Subcontractor's performance of the Work is delayed or interfered with, for any reason, and for any period of time by acts or omissions of Owner, Contractor, Architect, or other subcontractors, Subcontractor may request an extension of time for performance of the Work, but shall not be entitled to any increase in the Project Agreement price or to damages or additional compensation as a consequence of such delays or interference, regardless of whether the delay is caused by Contractor, Owner, Architect, or others except to the extent of any amounts that Contractor may, on behalf of Subcontractor, actually receive from Owner for such delays.*
 - 1.7 *Any time Subcontractor is behind schedule in its Work, Subcontractor shall, at its own expense, perform any overtime work necessary to bring its Work back on schedule. Contractor may, at any other time, direct Subcontractor to perform additional overtime work and Contractor shall pay the cost of the premium time only, without overhead or profit.*
 - 1.8 *Subcontractor's Project Superintendent or Foreman shall not be replaced during the scope of the work, except and unless otherwise approved or directed by Magnum Enterprises, Inc.*
 - 1.9 *Subcontractor's Project Superintendent or Foreman shall report to Contractor's Project Superintendent prior to commencing any work on the Project and report again after an extended absence from the Project in order to advise Contractor's Project Superintendent of the particular phase of Work Subcontractor is about to perform. During the time Subcontractor is performing the Work, Daily Work Report Forms shall be completed by Subcontractor and turned in at the Contractor's Jobsite Office at the end of each work day. Subcontractor's Superintendent or Foreman shall attend meetings as scheduled by Contractor's Project Superintendent for the purpose of scheduling all activities on this Project. Submission of such reports shall not constitute compliance with any of the notice or reporting requirements of this Agreement or of the Contract Documents. At all times when performance of work is being conducted by any employee*

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of Subcontractor, the Subcontractor shall have a representative present on-site who has the capability of receiving instructions in the English language, fluently speaking the English language and explaining the work operations to persons performing the work in the language that those performing the work are capable of understanding. The Contractor's Superintendent shall have the right to determine whether the Subcontractor representative has sufficient technical and lingual capabilities and any individual not acceptable to the Contractor's Superintendent shall be replaced immediately.

- 1.10 If Subcontractor at any time shall refuse or neglect to supply adequate and competent supervision, or a sufficiency of properly skilled workmen or materials of the proper quality or quantity, or fail in any respect to execute the Work with promptness and diligence, or fail to comply with any agreement on its part herein contained, or otherwise delay the Work of Contractor or other subcontractors, Contractor shall have the option, after twenty-four (24) hours written notice to Subcontractor, without prejudice to any other remedy Contractor may have, to provide any such labor or materials and to deduct the cost thereof from any money due to thereafter to become due by Contractor to Subcontractor. Contractor shall also be at liberty to terminate the employment of Subcontractor on said Work and to enter upon the premises and take possession of all materials or appliances, of any kind whatsoever, thereon and to employ any other person or persons to finish the Work and to provide the materials therefore, and in case of such discontinuance of the employment of Subcontractor, it shall not be entitled to receive any payment under this Agreement which might otherwise be due until the said Work shall be finished and payment in full therefore shall be made by Owner to Contractor, at which time if the unpaid balance of the amount to be paid under this Agreement shall exceed the expense incurred by Contractor in finishing Subcontractor's Work, and any costs or damage sustained by Contractor by reason of such failure or lack of performance by Subcontractor, including attorney's fees, such excess shall be paid by Contractor to Subcontractor, but if such expenses shall exceed such unpaid balance Subcontractor shall pay the difference to Contractor.
- 1.11 If Subcontractor is responsible for any delays in the time and sequence of the schedule, Subcontractor shall pay Contractor for all costs and damages suffered by Contractor as a result of such delays, including any damages assessed against the Contractor under the Contract Documents. Such payment shall be made by Subcontractor promptly upon written demand by Contractor.
- 1.12 In the event of litigation or arbitration to enforce the terms of this Agreement, the prevailing party shall be entitled to recover costs and reasonable attorney fees.

2.0 PROGRESS PAYMENTS

- 2.1 In order for the Subcontractor to receive payment of the first submitted invoice, Subcontractor must provide a guarantee letter and submittals/shop drawings (if required by the Subcontractor's trade) within two (2) weeks of receipt of the Project Agreement, unless otherwise specified in the Project Agreement and a written Illness and Injury Prevention Program (IIPP), which shall be provided in addition to an executed Agreement and meeting the requirements which are project specific for each project.
- 2.2 Payments for materials or equipment not incorporated into the Work, but delivered and suitably stored at the site or elsewhere, shall only be made where permitted by, and in accordance with, the terms and conditions of the Contract Documents. Where the Contract Documents permit payment for materials stored off the jobsite, Subcontractor shall, in addition to the other requisites of the Contract Documents, make any provisions necessary, including insurance covering loss or damage to the material, to ensure and protect Contractor's or Owner's title and right of possession and access to such materials.
- 2.3 The amount of each Progress Payment to Subcontractor shall not exceed the percentage of completion or cost of the work allowed to Contractor by Architect, Owner, or Lender for the Work of Subcontractor, less the specified retainage.

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- 2.4 Subcontractor shall pay for all materials, equipment, and labor used in, or in connection with, the performance of this Subcontractor through the period covered by previous payments received from Contractor, and no Progress Payments shall become due until Subcontractor has furnished satisfactory evidence in **ORIGINAL FORM** to verify compliance with this requirement and/or any other documents or information required by the Contract Documents, faxed or photo copies are not acceptable. In the event Contractor is required to remind or request missing documentation from Subcontractor, Subcontractor shall provide such missing documentation within three (3) working days of request. Failure to do so will result in non-payment and or forfeiture of any retentions due.
- 2.5 Payments otherwise due, either Progress Payments or Final Payment, may be withheld by Contractor on account of defective work not remedied, claims filed, reasonable evidence indicating probability of filing claims, failure of Subcontractor to make payments properly to its vendors, approved subcontractors for material or labor, or for applicable taxes, fees and fringes benefits or reasonable doubt that the Project Agreement can be completed for the balance of the Project Agreement Amount then unpaid, Subcontractor's failure to carry out the work in accordance with Contract Documents, or for any other breach of this Project Agreement. If the said causes are not removed, on written notice, Contractor may rectify the same at Subcontractor's expense. Contractor may offset against any sums due Subcontractor hereunder the amount of any liquidated or unliquidated obligations of Subcontractor to Contractor, whether or not arising out of this Agreement and any Project Agreement.
- 2.6 No payments to Subcontractor will be made until the following items are provided to Contractor in an acceptable manner: copy of Subcontractor's state issued license where applicable, city business permit where applicable, certificates of insurance as detailed hereafter, tax information, invoices in proper format, lien releases and signed original Agreement and Project Agreement.
- 2.7 No payments to Subcontractor, either Progress Payments or Final Payment, shall operate as an approval of Subcontractor's Work or material, or any part thereof.
- 2.8 The Subcontractor represents and warrants to the Contractor that it is a certified and duly licensed Subcontractor, where applicable, in the state where the project site is located, and as such is able to perform its obligations under this Agreement in full compliance with all applicable federal, state and local laws, codes, rules and regulations. As a condition precedent to Contractor's obligation to make any payment hereunder, Subcontractor shall furnish Contractor with Subcontractor's photo copies of any applicable business license or state contractor's licenses, and Subcontractor shall fully and continuously comply with Insurance requirements of this Agreement.

3.0 FINAL PAYMENT

- 3.1 Final Payment of the balance of the Project Agreement amount shall be made as follows:
- (a) Except as otherwise provided hereinafter, Final Payment shall be the unpaid balances of the Project Agreement amount, and shall become due when the Work as described in the Project Agreement is fully completed and performed in accordance with this Agreement and Contract Documents and is satisfactory to Owner, Architect, and Contractor. Receipt of funds by Contractor from Owner is a condition precedent to Contractor's obligation to make Final Payment to Subcontractor under this Agreement.
- (b) In addition to any other requirements of this Agreement and the Contract Documents, Final Payment shall not become due unless and until the following conditions precedent to Final Payment have been satisfied: (i) approval and acceptance of Subcontractor's work by Owner, Architect, and Contractor, (ii) delivery to Contractor of all manuals, "as-builts" drawings, guarantees, and warranties for material and equipment furnished by Subcontractor, or any documents required by the Contract Documents, (iii) receipt of Final Payments for Subcontractor's work by the Contractor from Owner, (iv) furnishing to Contractor satisfactory evidence by Subcontractor that all labor and material accounts incurred by Subcontractor in

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connection with this Work have been paid in full, (v) furnishing to Contractor a complete Release of Lien by Subcontractor and as required by the Contract Documents.

4.0 CHANGES

- 4.1 The Work to be performed under this Agreement may be modified by changes and required by Owner, Architect, or Contractor and the Contract Sum shall be adjusted by written Change Order in accordance with this Agreement.
- 4.2 No alterations, increases, or decreases shall be made in the Work as shown or described by the Contract Documents except on the written order of Contractor, and when so made, the value of the work or in materials added or omitted shall be computed via **written breakdown of all labor and materials**, subject to the written approval and acceptance by Contractor, and the amount so determined shall be added to or deducted from the Project Agreement Amount. Any change orders submitted to Contractor must include complete labor and material breakdown and profit and overhead. Profit and overhead will not exceed ten percent (10%). Minor changes in work do not constitute a reason for requesting a change order. The Contractor accepts the Subcontractor's proposal as inclusive of all quantities and specifications as specified on the plans and the bid documents. Any additional cost incurred by the Subcontractor due to inaccuracies of quantity take-offs or Owner non-approved altered scopes of work will be solely the responsibility of the Subcontractor and/or Vendor and the inaccuracy therein shall not be grounds for subcontractor change orders. The Subcontractor shall have no claim for additional work or changed work unless such work has been done in pursuance of a written order from Contractor. Any extra work performed without such written order will be at Subcontractor's expense.
- 4.3 All referenced drawings in the Contract Documents are an integral part of the Contract Documents and Project Agreement. If any of the listed drawings are modified or deleted, this Agreement will be voided. Not all of the listed drawings will be supplied to each subcontractor. However, all drawings will be available for review in the office, which is responsible for issuing the Contract Documents.
- 4.4 Any modifications to this Agreement and any subsequently issued Project Agreement without prior written approval from an authorized employee of Magnum Enterprises, Inc. will void this Agreement. If this agreement needs to be reissued due to unapproved Subcontractor modifications, a fee of \$150 will be deducted from the Project Agreement amount. If you require clarifications, contact the Project Manager prior to making changes to the original document.
- 4.5 The Change Order Request shall consist of the detailed description and estimate outlining the changes in the Work and detailed documentation justifying proposed changes in time. This estimate shall be computed in accordance with accepted estimating procedures and in accordance with the terms of the Contract Documents, and the costs of labor and materials shall be no greater than the actual labor and material cost (plus Burden), plus 10% to cover all overhead and supervisory personnel, for comparable labor and materials in the Project area.
- 4.6 All changes or modifications as requested by the Owner, Architect, or Contractor shall be submitted to the Contractor in writing as per Article 4.5, **within five (5) days of the request** or within five (5) days of the Subcontractor becoming aware of the potential change. Should there be no cost effect due to the modification, it shall be so stipulated in writing within this time period. Should Subcontractor fail to submit credits when credits are obviously due, the Contractor shall estimate these costs at not greater than the prevailing rates in the Project area.

5.0 TEMPORARY FACILITIES AND SERVICES

- 5.1 Subcontractor shall be responsible for unloading and hoisting all of its materials, supplies, tools, and equipment in order to ensure the timely completion of Subcontractor's Work. Subcontractor shall provide any other temporary facilities necessary for performance of Subcontractor's Work.
- 5.2 Procedure for Alleged Change in Cost:

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- (a) Should the Subcontractor perform any work or proceed in any manner and subsequently allege that he has thereby suffered increase costs, damage, or loss purporting to have acted upon verbal instruction or with tacit consent or acceptance or approval other than written from the Contractor ("verbal directions"), the Subcontractor shall be held to have done so at his own peril, and the Subcontractor shall have no claim against the Owner or Contractor on account of the alleged increase cost, damage, or loss.
- (b) If the Subcontractor contends he has received verbal directions which will result in an increase of the cost of the work, damage, or loss, and that he is entitled to payment from the Contractor by reason thereof, the Subcontractor shall, **within four (4) days** of the receipt of such verbal directions, except in an emergency endangering life or property, notify the Contractor in writing of his contentions, the amount of his claim with respect thereto, and all details in connection therewith. He shall not proceed with such verbal directions or with the work affected thereby until he has received written acknowledgment of the claim by and instructions from the Contractor.
- (c) If the Subcontractor shall contend that he is entitled to payment from the Contractor increased compensation, damage, or loss due to any action or omission of the Owner or others engaged by the Owner during the performance of the work, the Subcontractor shall not delay his work on account thereof and shall, **within three (3) days** after the first observance of such occurrence, notify the Contractor, in writing, of his contentions, the amount of his claim with respect thereto, and all details in connection therewith.
- (d) Within a reasonable time after receipt by the Contractor of the Subcontractor's written notice of claim under subparagraph (b) or (c) above the Contractor shall accept or reject the Subcontractor's claim. The Subcontractor shall furnish all information requested by the Contractor to assist it in making its decision.
- (e) It is a condition precedent to the consideration or prosecution of claims by the Subcontractor that the foregoing provisions be strictly observed in each instance, and if the Subcontractor fails to comply the Subcontractor shall be deemed to have waived the claim. Neither the provisions of this Paragraph 5.2 nor the acknowledgment of the receipt of (or the failure to reject in writing) any claim of the Subcontractor by the Contractor shall constitute admission on the part of the Contractor that any such claim is valid.

6.0 INSURANCE

- 6.1 Prior to the commencement of any work under this Agreement and any issued Project Agreement, Subcontractor shall procure and maintain at it's own expense and at all times during the performance of work under this Agreement and any issued Project Agreement, insurance under forms and through companies and agencies acceptable to Contractor and/or Owner as listed below.
- (a) **Workers Compensation and Employer's Liability** in compliance with State specified statutory requirements. The said policy shall be endorsed to include Occupational Disease and Voluntary Compensation for employee classifications excluded from Statutory Benefits.
- (b) **General Liability, Premises and Operations, Contractors Protective, Blanket Contractual, Broad Form Property Damage and Products / Completed Operations** with minimum limits of \$1,000,000 per occurrence, \$1,000,000 aggregate for Bodily and Personal Injury and \$1,000,000 per occurrence for Property Damage claims; unless higher limits and specialized coverage's are required by project and/or owner's specifications.
- (c) **Auto Insurance including Owned and Non-Owned Auto Coverage** with minimum limits of \$1,000,000 per occurrence, \$1,000,000 aggregate for Bodily and Personal Injury and \$1,000,000 per occurrence for Property Damage claims; unless higher limits and/or specialized coverages are required by project and/or owner's specifications.

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- (d) *The Subcontractor shall furnish said **original** Certificate(s) of Insurance to Contractor prior to commencement of work at the project site or within ten (10) days after signing the Project Agreement, whichever should first occur.*
- (e) *The Certificate(s) of Insurance must be endorsed to indemnify the Owner, Contractor and any other party designated by the project specifications and will cause them to be named as additional insured(s) under the General Liability and Automobile policies. The endorsement's must be attached to the original Certificate(s) of Insurance. The General Liability endorsement must be issued using Accord form CG2010 (11/85), equivalent manuscript for "On-Going and Completed Operations" or the additional insured form your policy affords.*
- (f) *At least thirty (30) days prior written notice will be furnished to Contractor by the insurer before reduction or cancellation of the policy.*
- (g) *Insurance polices must be written by insurance companies admitted with the Department of Insurance for the state the work is being completed and have an "AM Best" rating not less than "A".*
- (h) *The policy shall be endorsed to indicate that it is primary and any similar insurance which the Owner or Contractor or other designated party may elect to carry for their own protection shall be secondary or excess and not contributing insurance.*
- (i) *In addition to the insurance required above, Subcontractor shall insure his interest and work product from loss resulting from fire, earth settlement, earthquake, theft, embezzlement, riot or any other cause whatsoever, and neither the Contractor, Owner or other party designated by the project specifications will, under any circumstance, be liable or accountable to the Subcontractor for such loss.*
- (j) *The Subcontractor shall require that all coverage required herein, contain a Waiver of Subrogation in favor of the Owner, Contractor and said other designated party.*
- (k) *Nothing contained herein shall relieve the Subcontractor of his responsibility to respond directly to the Contractor and other project Subcontractors for damage he may cause to their interest without recourse to insurance carried by Owner or Contractor.*
- 6.2 *Should Subcontractor fail or neglect to provide the required insurance, Contractor shall have the right, but not the duty, to provide the required insurance. The cost for said insurance shall be deducted from any money that may be due or become due to Subcontractor.*

7.0 SUBCONTRACTOR'S RESPONSIBILITIES

In addition to other obligations required by this Agreement and the Contract Documents, Subcontractor shall perform the following:

- 7.1 *Subcontractor agrees at its own expense to (1) take all necessary precautions to protect the work of other trades from any damage caused by Subcontractor's operations, and (2) to watch over, care for, and protect from damage or injury by any cause whatsoever, all of Subcontractor's work, complete or otherwise and all of its materials, supplies, tools, and equipment at or near the Project. Subcontractor agrees, without loss or damage to Contractor, to make good any loss or damage to any and all such work, materials, supplies, tools, and equipment up to the final acceptance of the entire Project by Owner.*
- 7.2 *Subcontractor shall take all reasonable safety precautions with respect to its Work, shall comply with all safety measures initiated by Contractor and with all applicable laws ordinances, rules, regulations, and orders of any public authority for the safety of persons or property, OSHA regulations and all specific State safety requirements, i.e. CalOSHA, WAOSHA, in accordance with the requirements of the Contract Documents. Subcontractor shall report immediately to Contractor any injury to any of Subcontractor's employees at the site. **HARD HATS SHALL BE WORN AT ALL TIMES BY ALL PERSONNEL AT THE SITE.***

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- 7.3 *Use of jobsite telephones by Subcontractor is prohibited.*
- 7.4 *For all California projects, Subcontractor shall provide in writing to Contractor and maintain one copy at each project site, an Illness and Injury Prevention Program as stipulated by the California Code of Regulations, Chapter 8, Subchapter 2, Article 7, Section §15353.*
- 7.5 *Weekly Subcontractor safety meetings will be held at the jobsite every Monday morning for the duration of the work and the Subcontractor's Superintendent/Foreman will be required to attend the meetings and sign the Contractor's weekly safety meeting form. The Subcontractor will also be required to have on site Material Safety Data Sheets (MSDS) for their specific trade and all safety reports ready for inspection.*
- 7.6 *Subcontractor shall not subcontract, assign, or transfer this Agreement or any part thereof or amounts due or to become due hereunder without the prior written consent of Contractor.*
- 7.7 *Subcontractor warrants that all materials and equipment furnished and incorporated by it in the Project shall be new unless otherwise specified, and that all Work under this Agreement shall be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not conforming to these standards shall be considered defective. The warranty provided in this Paragraph 7.7 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.*
- 7.8 *The law of the place of the Work shall govern the Work of the Contract. In performing the Work, Subcontractor shall comply with all applicable federal, state and local codes, ordinances, regulations, and other law ("Applicable Laws"). Additionally, the finished work itself shall at a minimum conform to the requirements of the Applicable laws and standard trade practices in the area ("Practices") of which Subcontractor has actual or constructive knowledge. If a higher standard of quality and/or workmanship is required by the Applicable Laws or Practices than is required by the Drawings and Specifications, the former shall control and Subcontractor shall advise Contractor prior to Contract Execution in the event of the Drawings or Specifications fail to conform to the requirements of the Applicable Laws or Practices of which Subcontractor has actual or constructive knowledge and assumes full responsibility for his failure to do so.*
- Subcontractor shall be deemed to have constructive knowledge of all Applicable Laws and Practices of which an experienced contractor of like size and capacity in the conduct of a like enterprise would or should have knowledge.*
- 7.9 *The plans and specifications take precedence. Should there be discrepancies it shall be pointed out to the Contractor prior to execution of the Project Agreement for the specific work detailed in that Project Agreement. Should Subcontractor fail to notify Contractor of discrepancies, Contractor will hold Subcontractor to the more stringent requirement of the plans and/or specifications.*
- 7.10 *Subcontractor shall secure and, at its own expense, pay for all permits, fees, and licenses necessary for the execution of the Work, and shall pay all local, state, and federal taxes in connection with the Work, and agrees that all costs thereof are included in the Project Agreement amount. When required by Contractor, Subcontractor will furnish satisfactory evidence showing that all such payments have been made. Subcontractor shall promptly review all Contract Documents and report in writing to Contractor any variance to such codes, laws, ordinances, rules, and regulations. If Subcontractor performs any work knowing it to be contrary to such codes, laws, ordinances, rules and regulations, and without having given such notice to the Contractor, Subcontractor shall assume full responsibility therefore, and shall bear all costs and damages attributable thereto.*
- 7.11 *Subcontractor shall comply with federal, state, and local tax laws, social security acts, unemployment compensation acts and workman's compensation acts, insofar as applicable to the performance of this Agreement, and shall comply with all procedures, rules and regulations with regard to nondiscrimination issued or to be issued by any local, state, or federal government or agency, including the Equal Employment Opportunity Commission, insofar as they may apply to the Work.*

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- 7.12 Subcontractor shall reimburse, indemnify, hold harmless, and defend Contractor, Owner, and Architect and all of their agents and employees from and against all encumbrances, liens, claims, damages, losses and expenses, and including but not limited to attorney's fees arising out of or resulting from the performance of Subcontractor's Work provided that any such claim, damage, loss, or expense is
- (a) attributable to bodily injury, sickness, disease, or death, or patent infringement, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and
 - (b) caused in whole or in part by any negligent act or omission for Subcontractor or anyone directly or indirectly employed by it or anyone for whose act it may be liable, or is caused by or arises out of the use of any products, material, or equipment furnished by Subcontractor, regardless of whether it is caused in part by a party indemnified hereunder, in any and all claims against Contractor, Owner, or Architect or any of their agents or employees, by an employee of Subcontractor, or any directly or indirectly employed by Subcontractor, or anyone for whose acts Subcontractor may be liable, the indemnification obligation under this Paragraph 7.12 shall not be limited in any way nor shall there be any limitations on the amount or type of damages, compensation or benefits payable by or for Subcontractor under workman's compensation acts, disability benefits acts or other employee benefits act.
- The obligations of Subcontractor under this Paragraph 7.12 shall not extend to the liability of Architect, its agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instruction by Architects, its agents or employees, provided such giving or failure to give the primary cause of the injury or damage.
- 7.13 Subcontractor shall furnish and pay for, at its own expense, all labor, material, equipment, taxes, permit and license fees, labor fringe benefits, insurance and bond premiums (when required) and all other items and costs required to completely perform the Work in accordance with this Agreement and any subsequently issued Project Agreement.
- 7.14 Subcontractor will save and keep the Project and the lands upon which it is situated free from all mechanics's liens and all other liens by reason of the Work or any labor, materials, or other things used therein. If Subcontractor fails to remove any lien by bonding it or otherwise, Contractor may retain sufficient funds, out of any money due or thereafter to become due by Contractor to Subcontractor, to pay the same and all costs incurred by reason thereof, and may pay or bond said lien and costs out of any funds at any time in the hands of Contractor owing to Subcontractor. Nothing herein shall prevent Subcontractor from filing its own lien if otherwise entitled to do so.
- 7.15 Subcontractor will, on a daily basis, clean-up and haul away all debris to a dumpster furnished by Contractor, unless otherwise stipulated in Project Agreement, occasioned by the Work done hereunder and will at all times keep the Project and Premises clean. Any trash, debris, or liquid that poses a possible threat of fire or safety shall be removed from the premises immediately. If, after twenty-four (24) hours notice by Contractor to Subcontractor, Subcontractor has not diligently proceeded with the clean-up as outlined in this paragraph 7.15, then Contractor has the right to proceed with the clean-up work at Subcontractor's cost and expense and where allocation of the cost of clean-up among various Subcontractors is to be made, Contractor shall, at its sole discretion, determine the ratio to be charged to Subcontractor, and Contractor's determination thereof shall be final and binding.
- 7.16 Subcontractor shall cooperate with Contractor and other Subcontractors whose work might interfere with Subcontractor's Work, and shall participate in the preparation of coordination drawings in areas of congestion, specifically noting and advising Contractor of any such interference.

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- 7.17 All of Subcontractor's workmanship, materials, submissions, and samples shall be subject to the approval of Owner, Architect, and Contractor.
- 7.18 Subcontractor shall at all times employ an English speaking, competent superintendent or English speaking foreman who will maintain strict discipline among the workers and who shall be authorized to receive communications from the Contractor. Subcontractor shall immediately remove any supervisory personnel or worker who Contractor, in its sole discretion, claims unfit, shall immediately replace such person and such person shall not be employed again at the site without the written consent of Contractor.
- 7.19 All employees of Subcontractor shall at all times enforce strict discipline and good order and Subcontractor shall not employ an unfit person or anyone not skilled in the task as assigned by the Contract Documents. No radios, tape decks, etc., will be allowed on any project site, nor will loud or foul language will be tolerated. There will be NO SMOKING in any building associated with the work. All workers shall be properly attired: long pants, shirts with sleeves, hard-sole shoes in good condition, and hard hats which shall be worn at all times.
- 7.20 The Subcontractor shall keep an accurate record of "As Built" conditions to record any variations from Working, Engineering, or Shop Drawings, with particular reference to work which will be subsequently concealed. Upon completion of the Work, the Subcontractor shall deliver to the Contractor marked-up Drawings reflecting such variations.
- 7.21 The Subcontractor shall execute and deliver to the Contractor before final payment will be made, a written Guarantee, in a form provided by or acceptable to the Contractor and Owner, that all labor and materials furnished and work performed by the Subcontractor are in accordance with the requirements of the Contract Documents, including all amendments thereto. Should (1) any defect develop during the Guarantee period (which shall be one (1) year after completion of the entire project and acceptance by Owner and Contractor unless a longer period of time is expressly stated under the applicable trade section of the Specifications) due to improper materials, workmanship, or arrangements of (2) Owner or Contractor discover at any time before or after expiration of the Guarantee Period that any of the work did not conform to the requirements of the Contract Documents when performed or finished, Subcontractor shall without expense to the Owner or Contractor correct the defective or non-conforming work, and any other work affected in correcting such defects or non-conformity shall also be made good by Subcontractor.
- 7.22 Substitutions for materials shown on the plans and specifications are not allowed unless approved, in writing, by the owner or architect prior to installation. The Subcontractor assumes all responsibility for all costs associated with deviations from the project specifications.
- 7.23 If Subcontractor should violate the terms and conditions of this Agreement, Contractor will give a twenty-four (24) hour notification prior to taking measures to expedite the completion of Subcontractor's contractual obligations.

8.0 HAZARDOUS WASTE COMPLIANCE

8.1 Definitions

- 8.1.1 **Hazardous Materials.** "Hazardous Materials" shall mean and include each and all of the following: (a) any oil or other hydrocarbon or petroleum substances, solvents, flammable substances, explosives, radioactive materials, asbestos in any form which is or could become friable, urea formaldehyde foam insulation, or polychlorinated byphenals; (b) any chemical, materials or substance defined as or as included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "restricted hazardous waster", "toxic substances", or "chemicals known to the state to cause cancer or reproductive toxicity" or words of similar import under any applicable local, state or federal law under the regulations adopted or publications promulgated pursuant thereto; or (c) any other chemical, materials or substance, the exposure to

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which is prohibited, limited or regulated by any governmental authority or which may be harmful to human health or the environment due to flammability, toxicity, reactivity or corrosiveness.

- 8.1.2 *Hazardous Materials Laws.* "Hazardous Materials Laws" shall mean any federal, state or local laws, ordinances, rules, regulations, or policies relating to the environment, health and safety, any Hazardous Materials (including, but not limited to, the use, handling, transportation, production, disposal, release, discharge or storage thereof) or to industrial hygiene or the environmental conditions on, under or about the jobsite, including, but not limited to, soil groundwater conditions.

8.2 Covenants

- 8.2.1 *No Hazardous Materials without Prior Consent.* Notwithstanding anything contained in this Agreement to the contrary, Contractor, Subcontractor, and their respective employees, agents and representatives shall not cause or permit any Hazardous Materials to be brought upon, kept, stored, discharged or released on the jobsite or incorporated in, under or about the work without the specific prior written consent of Contractor. Subcontractor shall notify Contractor of the specific Hazardous Materials, the quantities thereof and the means by which Subcontractor desires to introduce such Hazardous Materials to the jobsite or incorporate them in the work. After receiving such notice, Contractor in their sole and absolute discretion, may consent to, deny, or impose such conditions as deemed appropriate, on the introduction to the jobsite or incorporation into the work of such Hazardous Materials.

- 8.2.2 *Compliance.* Contractor, Subcontractor and their respective employees, agents and representatives shall, at their sole cost and expense, comply with all applicable Hazardous Materials Laws and prudent industry practices regarding such Hazardous Materials. Without limitation, Contractor and each Subcontractor shall comply with the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), which prohibits the discharged into drinking water sources of, and the exposure of persons without notice to, certain Hazardous Materials. Upon completion of the work or earlier termination of this Agreement, Subcontractor and their respective employees, agents and representatives shall, at their sole cost and expense, cause all Hazardous Materials brought on or allowed onto the jobsite and not otherwise incorporated into the work with Contractor's written consent to be removed from the jobsite and transported for use, storage or disposal in full compliance with all applicable Hazardous Materials Laws. Subcontractor shall promptly deliver to Contractor copies of all Hazardous Materials manifests reflecting the legal and property disposal of all Hazardous Materials removed from the jobsite. Subcontractor and their respective employees, agents and representatives shall not take any remedial action in response to the presence of any Hazardous Materials in or about the jobsite or work without first notifying Contractor in writing, and any such remediation shall be in full accordance with all Hazardous Materials Laws and subject to such further conditions as in their sole and absolute discretion, may impose.

- 8.2.3 *Certificates.* At any time during the course of the work, and from time to time after the completion thereof, Subcontractor shall, within ten (10) days following Contractor's request, provide a certificate to such persons or entities as Contractor may direct, representing and warranting, without qualification, that, except as otherwise set forth in the certificate, the work does not contain any Hazardous Materials in amounts or conditions which would violate any Hazardous Materials Laws, would require any special notice to third parties, or would or could pose a threat to human health or the environment.

- 8.3 *Indemnity.* Subcontractor shall indemnify, defend (by counsel reasonably satisfactory to Contractor) and hold Contractor and Owner and their respective employees, agents and representatives harmless from and against any and all damages, losses, costs, expenses (including reasonable attorneys' fees and costs), liabilities, obligations, whether foreseeable or

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- unforeseeable, arising out of or related to Subcontractor's or their respective employees', agents' or representative's failure to abide by these provisions, including, but not limited to, any costs that Contractor or Owner may incur in remedying any such non-compliance.*
- 8.4 *Default. Should Subcontractor and/or their employees, agents or representatives fail to comply within twenty-four (24) hours from the time Owner or Contractor issues Subcontractor a written notice of non-compliance or within the time of any abatement period specified by any government agency, whichever period is shorter, Contractor may give a notice of default to Subcontractor. Failure of Subcontractor to cure such default within twenty-four (24) hours after receipt of such notice shall constitute a materials breach of this Agreement; provided, however, if such failure is curable, but such cure cannot reasonably be effected within such twenty-four (24) hours period, Subcontractor shall not be in default under the terms of this provision, if Subcontractor commences such cure within such twenty-four (24) hour period and thereafter diligently prosecutes such cure to completion.*
- 8.5 *Waiver. The waiver by Owner or Contractor of any term, covenant, agreement or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement or condition herein contained, nor shall any custom or practice which may grow up between the parties in the administration of this Agreement be construed to waive or lessen the right of Owner or Contractor to insist upon the full performance by Subcontractor and their respective employees, agents or representatives in strict accordance with all provisions of this Agreement.*
- 8.6 *Survival. The provisions of this section shall survive Subcontractor's completion of the work as called for in this Agreement or the earlier termination of this Agreement.*

9.0 TERMINATION

- 9.1 *In the event that the General Contract between Owner and Contractor provides Owner the right to terminate the General Contract without cause, the Contractor shall have the right to terminate Subcontractor without cause, and Subcontractor shall include such a right to terminate without cause, in all of its subcontracts or agreements relating to the work. Upon the occurrence of such a termination of this Subcontractor, Contractor's liability to Subcontractor shall be limited to reimburse Subcontractor for all work performed prior to the date of termination, up to and not exceeding such amount as Contractor is entitled to and actually received from Owner on account of Subcontractor's work. Subcontractor shall, upon notice of such termination, take prompt action to cancel all orders for materials, equipment, services, and terminate or minimize all continuing obligations and liabilities.*
- 9.2 *This Agreement and the other Contract Documents shall be read so as to complement each other. However, in the event of an irreconcilable conflict in the terms thereof, the provisions of this Agreement shall have precedence over the terms of the other Contract Documents.*
- 9.3 *The captions, titles, and paragraph headings used in this Agreement, Contract Documents, Specifications and Drawings are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of intent of this Agreement or any paragraph, article or provision therein.*
- 9.4 *This Agreement and any issued Project Agreement contains the entire agreement between the parties. Any executory agreement hereafter made shall be ineffective to change, modify, or discharge it in whole or in part, unless such executory agreement is in writing and signed by both Contractor and Subcontractor. All negotiations and agreements prior to the date of this Agreement not included herein are hereby voided.*

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10.0 STATE SPECIFIC INFORMATION

<i>Magnum Enterprises, Inc. Doing Business As</i>	<i>Jurisdiction</i>	<i>Trade Categories</i>	<i>License Number</i>
<i>Magnum Enterprises General Contractors, Inc.</i>	<i>Arizona</i>	<i>G.C., Class B-01</i>	<i>107907</i>
<i>Magnum Enterprises, Inc.</i>	<i>California</i>	<i>G.C., Class B-1</i>	<i>436517</i>
<i>Magnum Enterprises General Contractors, Inc.</i>	<i>Nevada</i>	<i>G.C., Class B</i>	<i>43523</i>
<i>M.E.I.</i>	<i>New Mexico</i>	<i>G.C., Class GB-98</i>	<i>81721</i>
<i>Magnum Enterprises, Inc.</i>	<i>Oregon</i>	<i>G.C., All Structures</i>	<i>102232</i>
<i>Magnum Enterprises, Inc.</i>	<i>Utah</i>	<i>G.C., Class B-100</i>	<i>376755-5501</i>
<i>Magnum Enterprises General Contractors, Inc.</i>	<i>Washington</i>	<i>G.C., CC01</i>	<i>MAGNUEG060JO</i>
		<i>Washington Resale Number</i>	<i>601 433 660</i>

SAMPLE

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11.0 SIGNATURES

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

The said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

IN WITNESS WHEREOF, the parties hereto have executed this Master Subcontract Agreement as of the day and year written below.

The Contractor:
MAGNUM ENTERPRISES, INC. _____

By: _____
Signature
Title: _____
Date: _____

The Subcontractor:

By: _____
Signature
Title: _____
Date: _____

Subcontractor Business Structure

Corporation	_____ President/Partner/Owner Name	_____ Fed. ID # or SS#
Partnership	_____ Vice President/Partner/Spouse Name	_____ Fed. ID # or SS#
Sole Ownership	_____ Secretary/Partner Name	_____ Fed. ID # or SS#

Washington State Projects Only - Subcontractor License Bond Information

_____ Bond Number	_____ Effective Date	_____ Expiration Date
_____ Bond Company Name	_____ Bond Company Address	_____ Amount of Bond