

PERFORMANCE AGREEMENT / CONTRACT
for
SUB-CONTRACTORS

PARTIES TO THE CONTRACT:

_____ (Contractor) and _____ (Sub-Contractor)
_____ (address) _____ (address)
_____ (address) _____ (address)

DATE: _____

In exchange for monetary compensation, the Contractor agrees to hire Sub-Contractor to perform the work as outlined below. Such agreement is subject to the following conditions, covenants, and obligations:

- 1) **COMMERCIAL AUTO INSURANCE REQUIREMENT** – When an auto is used in the course and scope of any actions performed by the Sub-Contractor for the Contractor, the Sub-Contractor shall carry commercial auto liability insurance with a per occurrence limit of at least \$1,000,000. The Sub-Contractor will provide the Contractor with a certificate of insurance evidencing the Sub-Contractor’s commercial auto insurance policy;
- 2) **GENERAL LIABILITY INSURANCE REQUIREMENT** - The Sub-Contractor shall carry general liability insurance with a per occurrence liability limit of at least \$1,000,000. The Sub-Contractor will provide the Contractor a certificate of insurance and name the Contractor as an “additional insured” on the Sub-Contractor’s general liability insurance policy;
- 3) **WORKERS COMPENSATION INSURANCE REQUIREMENT** - The Sub-Contractor is solely responsible for carrying the workers compensation insurance for Sub-Contractor and all of Sub-Contractor’s employees. The Sub-Contractor will defend and indemnify the Contractor against all claims against the Contractor by the Sub-Contractor or its employees relating to on-the-job-injuries and waive subrogation against the Contractor and its worker compensation insurance carrier for any claims filed by the Sub-Contractor’s employees or other sub-contractors employees. The Sub-Contractor further agrees to indemnify Contractor against any claims made by the Sub-Contractor or his employees. Finally, the Sub-Contractor agrees that if for any reason the Contractor is found liable for any workers compensation benefits payable to Sub-Contractor’s employee, then Sub-Contractor shall reimburse to Contractor any insurance premium associated with the claim and charged to the Contractor by Contractor’s own workers compensation insurance. If the Sub-Contractor cannot provide proof of workers compensation insurance via a valid certificate of insurance indicating coverage during the time the Sub-Contractor works/worked for the Contractor, than the Contractor may withhold a reasonable amount of the contract cost to pay any additional workers compensation premium the Contractor may incur due to the Sub-Contractor’s failure to provide proof of workers compensation insurance to Contractor;
- 4) **INDEMNIFICATION AND DEFENSE** - The Sub-Contractor shall indemnify and defend the Contractor against all claims relating to or arising from the alleged negligence of the Sub-Contractor. This defense includes paying all legal fees and costs associated with any claim or demand made by a third-party against the Contractor that relate to the alleged negligence of the Sub-Contractor, even if such claims also allege the Contractor was negligent, too;

- 5) **PROPERTY DAMAGE GUARANTEE** - The Sub-Contractor shall pay for any and all damages, including loss of value, sustained by the Contractor's products, inventory, or other property while such property is in the care, custody, or control of the Sub-Contractor, regardless of fault or whether the Sub-Contractor's insurance covers the damage;

- 6) **LICENSE / BOND / INSURANCE** - The Sub-Contractor must be licensed to do business in the state of _____, must be bonded according to all applicable state law, and must be insured at this state's minimum standards or as described elsewhere in this Agreement, whichever coverage requirement is greater / more expansive;

- 7) **INDEPENDENT CONTRACTOR STATUS** - All parties to this Agreement agree that the Sub-Contractor is an independent contractor. The Sub-Contractor is in control of the details of its own work, the sequence of performance, the supplying of tools, the supplying of labor, etc. to complete the contracted job. The Sub-Contractor is in charge of its own methods and training in completing the job. The Sub-Contractor is not an agent or employee of the Contractor, and has no expectation of continued work with Contractor after completion of the job. The Sub-Contractor is not required to submit regular oral or written reports concerning the job in progress to the Contractor. The Sub-Contractor shall be paid by the job (usually a negotiated flat rate or upon submission of a bid). The Sub-Contractor is legally responsible for completion of the contracted job. If the Sub-Contractor quits prior to completion of the contracted job, then Sub-Contractor is liable for breach of contract;

- 8) **LEGAL FORUM** - In the event this Agreement must be enforced in court, it will be interpreted according to _____ state law and any legal proceedings shall be held in the county where the Contractor's place of business is located; and

- 9) **ARBITRATION AGREEMENT** - The Contractor often enters into Arbitration agreements with consumers. In order to reduce the amount of time and resources associated with any claim(s) filed by a consumer against the retailer that involves any services or products provided to the Retailer by the Sub-contractor, the Sub-contractor agrees to submit himself/itself to this Arbitration process as described in the Consumer Arbitration agreement and pay its proportionate share of the Arbitrator's fees and any other ancillary costs incurred as a result of the Arbitration process.

The Sub-Contractor has been hired to complete the following work at the following price:

This complete Agreement shall remain in full force and effect until amended in writing. In the event a party to the contract must sue to enforce any part of this Agreement, the losing party in the litigation shall pay all attorneys' fees, other fees, litigation costs, and court costs on behalf of the winning party.

| | <u>Contractor</u> | <u>Sub-Contractor</u> |
|---|--------------------------|------------------------------|
| Signature | _____ | _____ |
| Printed name | _____ | _____ |
| Co. Name | _____ | _____ |
| Address | _____ | _____ |
| | _____ | _____ |
| State Operating License # (if applicable) | _____ | _____ |
| Date | _____ | _____ |

