

**Project: «PROJECT\_JOB\_NUMBER»**  
**«PROJECT\_SUBJOB\_NUMBER» «PROJECT\_DESCRIPTION»**  
**«PROJECT\_DESCRIPTION\_2»**

**Subcontract**  
**#«SCOPE\_OF\_WORK\_CON**  
**TRACT\_NUMBER»**

## Subcontract Agreement

THIS AGREEMENT, made this «SCOPE\_OF\_WORK\_DATE\_CREATED» by and between «SUBCONTRACTOR\_NAME», «SUBCONTRACTOR\_ADDRESS1», «SUBCONTRACTOR\_ADDRESS2», «SUBCONTRACTOR\_CITY», «SUBCONTRACTOR\_STATE» «SUBCONTRACTOR\_POSTAL\_CODE» hereinafter called the Subcontractor and TN WARD COMPANY, a Pennsylvania Corporation, hereinafter called the Contractor.

### WITNESSETH:

WHEREAS, Contractor has entered into a contract (The "Contract") with «OWNER\_NAME» ("Owner") pertaining to the construction of «PROJECT\_DESCRIPTION» «PROJECT\_DESCRIPTION\_2» (the "Project"); and WHEREAS, Contractor and Subcontractor desire to enter into this Agreement for Subcontractor's performance of a portion of the work called for by the Contract. NOW, THEREFORE, for and in consideration of the premises and other good valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the parties agree as follows:

For the consideration hereinafter named, the Subcontractor covenants and agrees with the said Contractor as follows:

ARTICLE I: The Subcontractor agrees to furnish all material and perform all work to fully construct, and in every respect, complete all work as described in Article II hereof for the project

Project : «SCOPE\_OF\_WORK\_JOB\_NUMBER» «SCOPE\_OF\_WORK\_SUBJOB\_NUMBER» -  
«PROJECT\_DESCRIPTION» «PROJECT\_DESCRIPTION\_2»  
«PROJECT\_ADDRESS1» «PROJECT\_ADDRESS2»  
«PROJECT\_CITY», «PROJECT\_STATE» «PROJECT\_POSTAL\_CODE»

in accordance with this Subcontract Agreement, (referred to herein as the "Subcontract") and in accordance with the Agreement between the Owner and Contractor, and in accordance with the General Conditions of the Contract, Supplementary General Conditions, the Drawings and Specifications and addenda prepared by the Architect, and/or prepared by Owner's authorized agent, all of which documents, signed by the parties thereto, or identified by the Architect or Owner's authorized agent, form a part of a contract between the Contractor and Owner (the "Principal Contract"), and hereby become a part of this Subcontract and herein referred to as the Contract Documents, and shall be made available to the Subcontractor upon his request prior to and at any time subsequent to signing this Subcontract.

ARTICLE II: The Subcontractor and the Contractor agree that the materials to be furnished and work to be done by the Subcontractor are as follows:

«SCOPE\_OF\_WORK\_SCOPE\_OF\_WORK»

EXHIBITS: This Subcontract includes the following Exhibits, Attachments or Riders that are part of this Subcontract:

«SCOPE\_OF\_WORK\_INCLUSIONS»

ARTICLE III: Submission of all required shop drawings, details, and samples, etc. by the Subcontractor must be completed on or before AS PER PROJECT SCHEDULE; however, Contractor's approval thereof shall not relieve Subcontractor from responsibility or liability for such mistakes, errors or deviations or of Subcontractor's obligation to perform its work in strict accordance with the Contract Documents. If these requirements are not fulfilled and the delays are the fault of the Subcontractor, then it is agreed that an automatic breach of contract has arisen, and after that date, the three-day notice of termination as set forth in Article IV is considered to be in effect. In the event Contractor shall delay or suspend the commencement or execution of the whole or any part of the work hereunder, or vary the sequence of performance thereof, Contractor shall not be liable to Subcontractor for any damages, consequential or otherwise; sustained by Subcontractor as the result thereof and the sole remedy of Subcontractor with respect to such delay or suspension shall be an extension of time for Subcontractor in completing its work under this Subcontract for a period equal to that of such delay or suspension, provided that Subcontractor shall not be entitled to an extension of time unless claim therefor is made, in writing, to Contractor within three working days of the commencement of such delay or suspension.

ARTICLE IV: The Subcontractor will begin his work promptly as soon as he is notified by the Contractor and will furnish the required labor and materials necessary to carry forward and complete said work as rapidly as conditions on the Project will permit. The Subcontractor will not, in any manner delay or otherwise interfere with the work of the Contractor, other Subcontractors or such other contractors as Owner may employ to work on the Project. If the Contractor concludes that the Subcontractor is not proceeding with due diligence or is interfering with or delaying said work, it shall so notify the Subcontractor, who within three days thereafter, will furnish such materials and employ such additional men, and otherwise cease to interfere with said work, as may be required by the Contractor. If the Subcontractor fails to comply with said requirements, the Contractor shall have the right to furnish said materials and employ said additional men, or take other steps to terminate such interference, and charge the expense thereof against the Subcontractor, deducting the same from this Subcontract, with the right to collect any deficiency by legal process. In such event, the Contractor may also cancel this Subcontract, and reward the same to another Subcontractor for the completion of the work, without limiting the foregoing right to charge any expense so incurred against the Subcontractor, and to collect any deficiency by legal process.

Should the Subcontractor fail to begin, continue and complete the work promptly and with due diligence as herein before provided, then and in that event the Subcontractor will indemnify and save harmless the Contractor from any loss or damages which it may be compelled to make good to the Owner, under or by virtue of its Principal Contract with Owner, for or on account of delay in the completion of the Project, insofar as such delay was caused by the said Subcontractor, without prejudice, however, to the Contractor's other remedies as herein set forth.

ARTICLE V: The Contractor shall not be responsible for disputes between subcontractors and materialmen on the Project, or for claims and demands arising therefrom, and the Subcontractor hereby expressly releases the Contractor from any such liability. The Contractor may, but shall not be obliged to act as arbitrator of disputes between subcontractors and materialmen, if requested to do so by all parties involved, but shall nevertheless be free to proceed in accordance with Article II and IV above whenever it concludes that the Subcontractor is delaying or interfering with the work while such dispute is pending.

ARTICLE VI: The Subcontractor shall provide sufficient, safe and proper facilities at all times for the inspection of his work by the Architect, the Contractor and their authorized representatives. He shall, at once, remove all materials and take down and rebuild all portions of the work, condemned by the Architect or Contractor, upon receiving notice in writing of such condemnation.

ARTICLE VII: The Subcontractor shall not employ or continue to employ in said work any superintendent, foremen or workmen to whose employment the Contractor, the Architect or the Owner shall have objected by written notice to the Subcontractor.

ARTICLE VIII: No extra work or changes under this Subcontract will be recognized or paid for, unless agreed to in writing by Contractor's Project Manager before the work is done or the changes made, in which writing shall be specified in detail the extra work or changes desired, the price to be paid or the basis for payment established.

ARTICLE IX: To the fullest extent permitted by law, the Subcontractor agrees to indemnify, hold harmless and defend Contractor, Owner and Owner's lender, Architect, Engineer, Partner, and Joint Venture and their agents, employees, representatives, partners, officers, directors, stockholders, members, managers and parent, subsidiary and affiliated and successor companies and any entity or individual listed in Exhibit A Schedule of Indemnified/Insured Parties (individually or collectively, the "Indemnified Parties") from and against any and all liability for loss, damage, expense, privacy liability, business income loss or data loss for which the Indemnified Parties may be held liable or incur by reason of injury (including death) to any person (including Subcontractor's employees) or damage to the work or any property of whatsoever kind or nature or as a result of any improper use of disclosure of Personally Identifiable Information, Personal Health Information, or Confidential Corporate Information; Personal Injury/Advertising Injury; Patent Infringement, Economic Loss; Fines/Penalties arising out of or in any manner connected with the work for the Indemnified Parties (including, but not limited to, work performed under this Subcontract, work under Change Order, or any such other work for or on behalf of the Indemnified Parties, whether performed at the site or not, or in any way connected with the use, misuse, erection, maintenance, operation or failure of any machinery or equipment whether or not such machinery or equipment was furnished, rented or loaned by any of the Indemnified Parties), even for, and if caused in whole or in part to any act, omission, negligence, or strict liability of the Indemnified Parties. It is expressly understood and agreed that the indemnity and defense contained in this paragraph covers claims by Subcontractor's employees and that Subcontractor expressly waives any immunity and defense to this indemnification obligation which may arise under the Workers Compensation Act of any State. In addition, Contractor shall defend the Indemnified Parties against any claim which may potentially give rise to indemnification of the Indemnified Parties, even if such claim alleges that the Indemnified Parties are wholly or partially at fault or strictly liable for causing the loss. If Indemnification for the Indemnified Parties' negligence is expressly prohibited by law or not extended to the Indemnified Parties for any reason, a defense of the Indemnified Parties shall be provided until it is conclusively established by a court of competent jurisdiction that: 1) the Indemnified Parties are solely liable for causing the loss, damage, expense alleged; and 2) that neither Contractor, nor its employees, nor anyone for whom Contractor may be liable, is liable for causing any part of the loss, damage,

expense for which defense and indemnification is sought. It is further expressly agreed that Subcontractor assumes the fullest extent of all obligations to indemnify and defend all parties whom Contractor is obligated to indemnify and defend in Contractor's Principal Contract with Construction Manager, Prime Contractor, Owner, Architect, Engineer, Partner and/or Joint Venture (whether or not such obligations may extend to items beyond those addressed in this Agreement).

If there are any damages or claims of any kind or nature unsettled when the Subcontract work is finished, the Final Payment by Contractor shall be deferred until all such claims shall have been adjusted or suitable coverage or indemnity acceptable to Contractor is provided by Subcontractor or Subcontractor's insurance carrier. The terms and conditions of this Article shall survive termination of this Subcontract Agreement.

Subcontractor and Contractor further agree that the Laws of the Commonwealth of Pennsylvania shall apply to the construction and application of the Indemnification and Hold Harmless Agreements set forth above. If any provision herein is found by a court to be invalid or unenforceable for any reason, such provision shall be construed and/or reduced or reformulated by the court in such a way as to make it valid and enforceable to the maximum extent possible. Any invalidity or unenforceability of any provision shall attach only to such provision and shall not affect or render invalid or unenforceable any other provisions herein, shall not constitute a waiver of any common-law indemnification rights, or render invalid or unenforceable any other portion of the Subcontract Agreement.

In no event is the Subcontractor to begin work until a Certificate of Insurance showing coverage in the aforementioned amounts required for the job is received and approved by Contractor. Any work performed without having the Certificate of Insurance received and approved by Contractor is at Subcontractor's own risk.

ARTICLE X: INSURANCE. Unless otherwise provided herein, the Subcontractor shall have a direct liability for the acts of his employees and agents for which he is legally responsible, and the Subcontractor shall not be required to assume the liability for the acts of any others, subject to the indemnification requirements contained elsewhere herein.

Prior to the start of work covered by this Agreement, the Subcontractor shall obtain and pay for the following types of insurance written by companies satisfactory to the Contractor:

(a) Workmen's Compensation and Employers Liability as may be required by the State in which the work is to be performed. The Subcontractor agrees to assume, or reimburse to the Contractor, any charge or premium imposed by the Contractor's Workmen's Compensation insurance carrier by reason of inadequate coverage maintained by the Subcontractor.

(b) See Exhibit A for specific Project insurance requirements.

(c) In no event is the Subcontractor to begin work until a Certificate of Insurance showing coverage in the amounts required for the job is received and approved by Owner and Contractor. Any work performed without having the Certificate of Insurance received and approved by Contractor is Subcontractor's own risk.

ARTICLE XI: The Subcontractor shall pay all Sales, Use, Privilege, Excise, Old Age Benefit, Unemployment Compensation and similar taxes and contributions imposed by the United States Government and the State and any municipal subdivision in which the work is performed, with respect to the material and labor furnished under this Subcontract.

ARTICLE XII: This Subcontract or its proceeds shall not be assigned by the Subcontractor. Any such assignment or attempted assignment shall operate as an instant forfeiture and repudiation hereof by the Subcontractor, and the rights of the parties shall be determined in the same manner as though the Subcontractor had at the time of such assignment or attempted assignment failed and refused to perform or continue to perform this contract for a period of more than five days after written demand so to do.

ARTICLE XIII: The Subcontractor understands that the Contractor is obligated to complete performance of the Principal Contract on or before AS PER PROJECT SCHEDULE and it is therefore understood and agreed that the work provided shall be completed at times and in a manner as requested by the Contractor so as not to delay the progress of the work or the completion of same. When extension of time for changes in the work, strikes, fire or other casualty has been granted to the Contractor by the Architect or by the Owner, a corresponding extension will be granted to the Subcontractor.

ARTICLE XIV: The Subcontractor further agrees that if the Contractor so requests, he will, within ten days from the date hereof, provide the Contractor with a Performance and Payment bond for the full contract price hereunder, conditioned for the faithful performance of this contract in all its particulars, duly executed with corporate surety, and in form and contents acceptable to the Contractor, premium for same to be paid by Contractor.

ARTICLE XV: The Subcontractor agrees to be bound to the Contractor by the terms of the Contract Documents and this Agreement, and assume toward the Contractor all the obligations and responsibilities that the Contractor, by those documents, assumes toward the Owner, as applicable to this Subcontract. In the event of the termination of the Principal Contract between Contractor and Owner, this Subcontract shall also be terminated, upon written notice of Contractor to Subcontractor, and in such case, Contractor shall only be liable for labor, materials, articles and equipment furnished and/or materials and equipment ordered for the project up to the date of receipt by Subcontractor of such written notice of termination but only to the extent Subcontractor is liable for same, provided that contractor shall not be liable for anticipated profits or overhead.

ARTICLE XVI: All jurisdictional disputes arising on this Project in connection with the performance of this work and/or the furnishing of this material shall be subject to adjustment and settlement by the National Labor Relations Board.

ARTICLE XVII: In addition to the foregoing provisions the parties agree that the Subcontractor shall:

(1) Submit to the Contractor, if payments are made on valuations of work done, before the first application, a schedule of values of the various parts of the work aggregating the total sum of the Contract, made out in such detail as the Subcontractor and Contractor may agree upon, or as required by the Owner, and if required, supported by such evidence as to its correctness as the Contractor may direct. This schedule, when approved by the Contractor, shall be used as a basis for Certificates for Payment, unless it be found to be in error. In applying for payments, the Subcontractor shall submit a statement based upon this schedule.

(2) Pay for all materials and labor used in, or in connection with, the performance of this Subcontract, through the period covered by previous payments received from the Contractor, and furnish satisfactory evidence when requested by the Contractor, to verify compliance with the above requirements.

(3) Make all claims for extras for extensions of time and for damage for delays or otherwise, promptly to the Contractor consistent with the Contract Documents.

(4) Take necessary precaution to properly protect the finished work of other trades. All work materials, equipment and articles of Subcontractor shall be protected by Subcontractor at its own expense against deterioration, loss, theft, damage and injury and Subcontractor (and not Contractor) shall be responsible therefor until completion and acceptance by Owner of all work under the Principal Contract.

(5) Keep the building and premises clean at all times of debris arising out of the operation of this Subcontract. The Subcontractor shall not be held responsible for unclean conditions caused by other Contractors or Subcontractors, unless otherwise provided for. Clean up debris to GC supplied dumpster.

(6) Guarantee his work against all defects of materials and/or workmanship as called for in the Contract Documents, or if no guarantee is called for, then for a period of one year from the dates of partial or total acceptance of the Subcontractor's work by the Owner.

(7) Comply with all Federal, State and local laws and ordinances applying to the building or structure and to comply and give adequate notices relating to the work to proper authorities and to secure and pay for all necessary licenses or permits to carry on the work as described in the Contract Documents as applicable to this Subcontract.

(8) Agree that all work shall be done subject to the final approval of the Architect or Owner's authorized agent, and his decision in matters relating to artistic effect shall be final, if within the terms of the Contract Documents.

(9) Comply with all executive orders called for in the specifications, particularly with regard to equal opportunity obligations and further agrees to comply with the prevailing minimum wage provisions as set forth in the specifications.

ARTICLE XVIII: This contract shall be subject to arbitration under the provisions therefor in the American Institute of Architects' "General Conditions of the Contract for Construction - AIA document A 201- 1997", as contained therein and related provisions to the extent applicable, except that arbitration shall occur at the Philadelphia, Pennsylvania, office of the American Arbitration Association and the award of the arbitrators shall not be final but shall be appealable to any court of record having jurisdiction (which shall try the matter in dispute de novo). Pending determination, there shall be no work stoppage.

ARTICLE XIX: Subcontractor for itself, its subcontractors and all parties acting through or under it hereby covenants and agrees not to file any liens or to make any claims against the premises or any part thereof or against any building or buildings or other improvements erected or made to be erected or made thereon, or against any monies due or to grow due to the Contractor, in accordance with any statute, State or Federal, without seven days written notice to Owner and Contractor. Subcontractor agrees that

its lien rights are limited to only the unpaid balance due for completed work under this Subcontract which is agreed to be calculated as the current Subcontract amount including approved change orders less payments received, less value of uncompleted work. Subcontractor agrees that if their subcontractor, sub-subcontractor, vendor or anyone with a direct contract with this Subcontractor files a lien a) for work which this Subcontractor has been paid or b) for a value greater than the unpaid value which the Subcontractor has identified on the most recent Subcontractor Affidavit or c) which is not listed on the most recent Subcontractor Affidavit, this Subcontractor shall cause this lien to be removed immediately or indemnify the Owner and Contractor by posting bond or other security satisfactory to the Contractor in the full amount of the filed lien, at the Subcontractor's cost. If the Subcontractor fails to take these actions within 3 working days of written demand from the Contractor then the Subcontractor hereby authorizes the Contractor to 1) immediately reduce the Subcontractor's Subcontract amount by change order in an amount equal to the amount by which the claim exceeds the amount stated in the Subcontractor Affidavit and 2) post a bond or cash security in the full amount of the lien and 3) deduct the cost of the bond or value of the cash security and any legal fees incurred from this Subcontract or any other subcontract with this Contractor.

ARTICLE XX: It is understood and agreed that Owner and/or Architect has the right to approve or disapprove this Subcontract or the employment of this Subcontractor, and in the event that Owner and/or Architect do not approve same, this Subcontract shall become null and void.

ARTICLE XXI: The Subcontractor shall be responsible to the Contractor for compliance with all safety rules and regulations during the conduct of Subcontractor's performance on and in connection with this Project. Subcontractor shall indemnify the Contractor for any and all expense incurred by the Contractor for fines, penalties and corrective measures that result from acts of commission or omission by the Subcontractor, his agents, employees, and assigns in failure to comply with such safety rules and regulations.

IN CONSIDERATION WHEREOF: The Contractor agrees that he will pay to the Subcontractor in monthly payments the sum of «SCOPE\_OF\_WORK\_EXCLUSIONS» (\$«SCOPE\_OF\_WORK\_CONTRACT\_AMOUNT») for said materials and work, said amount to be paid as follows:

(a) Progress Payments: Progress Payments will be made by the Contractor to the Subcontractor monthly. The Subcontractor will present an invoice for all work completed by him hereunder to the first of each month, deducting therefrom a retained percentage of «SCOPE\_OF\_WORK\_RETENTION\_PERCENT»%, and deducting from the difference the sum of payments (if any) previously made; the balance, if approved by the Contractor and the Architect, will be paid within seven days from date of receipt of the payment from the Owner of Contractor's billing and / or Architect's Certificate for payment. It is further understood and agreed that no payment on account shall operate as an approval of said work or materials, or any part thereof.

(b) Final Payment: Final Payment shall be made within approximately thirty (30) days after substantial completion of the entire Project provided the work described in this Subcontract be fully completed and performed to the satisfaction of the Architect and Owner and within seven days from date of receipt by Contractor of final payment from the Owner.

Before issuance of the Final Payment, the Subcontractor, if required, shall submit evidence satisfactory to the Contractor that all payrolls, material bills, and all known indebtedness connected with the Subcontractor's work has been satisfied, Subcontractor will execute a full release of liens for work pertaining to the Subcontract concurrent with receipt of Final Payment.

All negotiations and agreements prior to the dates of this memorandum are merged herein and the undersigned parties have read and fully understood this Agreement.

The Contractor and the Subcontractor for themselves, their successors, executors, administrators and assigns, hereby agree to the full performance of the covenants of this Agreement.

IN WITNESS WHEREOF, they have executed this Agreement the day and date written above.

Witness:

«SUBCONTRACTOR\_NAME»

«COMPANY\_NAME»

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«SENDER\_CONTACT\_LAST\_NAME»

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«SENDER\_CONTACT\_FIRST\_NAME»

«SENDER\_CONTACT\_TITLE»

SAMPLE