

## SUBCONTRACTOR AGREEMENT

Subcontractor Profile		
Legal Name:		
Type: (select one)	<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership	<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> LLC <input type="checkbox"/> Other
EIN / Social Security Number:	State of Organization, Formation and/or Registration:	
Trade / Work Performed:		
Main Contact:		
Main Address 1:		
Main Address 2:		
Main City:	Main State:	Main Zip:
Main Phone 1:	Main Phone 2:	Main Fax:
Mail E-Mail:		
Billing Contact:		
Billing Address 1:		
Billing Address 2:		
Billing City:	Billing City:	Billing City:
Billing Phone 1:	Billing Phone 2:	Billing Fax:
Billing E-Mail:		
Emergency Contact:		
Emergency Address 1:		
Emergency Address 2:		
Emergency City:	Emergency City:	Emergency City:

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Emergency Phone 1:	Emergency Phone 2:	Emergency Fax:
Emergency E-Mail:		

<b>Licensing</b>		
<b>Jurisdiction</b>	<b>Trade Category</b>	<b>License Number</b>

<b>Insurance</b>	<b>Carrier</b>	<b>Policy Number</b>	<b>Agent</b>	<b>Expiration Date</b>
Workers Compensation				
General Liability				
Auto Liability				
Environmental/ Pollution Liability				
Professional Liability				

<b>Prior Project References</b>				
<b>Completion Date</b>	<b>Description of Work</b>	<b>Contract Amount</b>	<b>Contact Person</b>	<b>Phone Number</b>
		\$		
		\$		
		\$		
		\$		

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**SUBCONTRACTOR MUST PROVIDE ABBOTTS FIRE & FLOOD (HEREINAFTER REFERENCED AS “COMPANY”) WITH COPIES OF THE FOLLOWING DOCUMENTS ALONG WITH TWO SIGNED COPIES OF THIS SUBCONTRACTOR AGREEMENT. SUBCONTRACTOR MAY NOT COMMENCE WORK UNDER THIS AGREEMENT UNTIL THESE DOCUMENTS ARE ON FILE WITH, AND APPROVED BY COMPANY.**

\_\_\_\_\_ Certificates of Insurance: Current proof of Worker’s Compensation Insurance, General Liability Insurance, Automobile Liability Insurance and, if required by Company, Environmental/Pollution Liability Insurance (e.g. for HVAC, mold and asbestos remediation) and/or Professional Liability (e.g. engineers), with at least the minimal coverage limits required by this Agreement.

\_\_\_\_\_ Subcontractor Insurance Compliance Statement: Statement from Insurance Agent confirming insurance requirements.

\_\_\_\_\_ Certificate of Insurance Additional Insured Endorsement: Endorsement with ABBOTTS FIRE & FLOOD 2301 S. JASON ST. DENVER CO 80223 as an additional insured on all Subcontractors’ policies, except Worker’s Compensation.

\_\_\_\_\_ Waiver of Subrogation: Completed and signed where appropriate.

\_\_\_\_\_ IRS Form W-9: Completed and signed where appropriate.

\_\_\_\_\_ Pinnacol Declaration of Independent Contractor Status: If Applicable, completed, signed and notarized where appropriate.

\_\_\_\_\_ Copy of licenses: Copy of licenses described above.

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THIS SUBCONTRACTOR AGREEMENT (“Agreement”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (the “Effective Date”), by and between Company and Subcontractor.

1. **DEFINITIONS.** As used in this Agreement, the following terms will have the meanings noted unless otherwise indicated:
- a. **“Agents”** means Subcontractor’s employees, approved sub-subcontractors, suppliers, materialmen, or other Person performing any of the Work on behalf of, or supplying Work related materials to, Subcontractor.
  - b. **“Change Order”** means any written change to the Work or materials designated in an SOW, which is signed by Company.
  - c. **“Company”** means Company, a Delaware limited liability company, currently with a principal place of business at 5150 Havana Street, Unit F, Denver, Colorado 80239, and its successors and assigns.
  - d. **“Government Agency”** means any government, municipality, or political subdivision thereof, or any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality, or public body.
  - e. **“Defect”** means a failure of the Work to conform to: the details, plans, specifications, standards or drawings included in an SOW; requirements of applicable Laws; or any other requirement of this Agreement.
  - f. **“Laws”** mean all federal, state and local statutes, ordinances, and codes (including, without limitation, the building code(s) applicable to the Work), all rules and regulations issued by any Government Agency pursuant to any of the foregoing (including, without limitation, those of OSHA, HUD, VA, FHA, EPA), and all applicable decisions, judgments or orders of any Government Agency or court.
  - g. **“Person”** means a natural person, corporation, partnership, limited liability company, trust, association, sole proprietorship or other legal entity.
  - h. **“SOW”** means each Statement of Work prepared by Company, and signed by both parties, that includes the estimate, details, plans, specifications, standards or drawings relating to the Work to be performed by Subcontractor, including particular materials, features, options, upgrades and the like, which are to be furnished to and/or installed at any individual Work Site. The SOW will also include the customer’s name and contact information, the location of the Work Site, the time for performance of the Work, the compensation to be paid to the Subcontractor for the Work, the timing of such payments and other information relating to the Work to be performed. The SOW will be provided in substantially the form attached hereto as Exhibit A, and will include the estimate, purchase order and any documents outlining the details noted above attached. **The Subcontractor is required to perform all of the Work, as set forth in the SOW, unless modified by a Change Order or other written approval from Company.**
  - i. **“Subcontractor”** means the Person identified above on the first line of this Agreement.
  - j. **“Subcontractor Policies & Procedures”** means the procedures provided to Subcontractor by Company, as amended from time to time by Company, which set forth Company’s current subcontractor setup, change orders, billing, payment and other policies and procedures to be followed by Subcontractor.
  - k. **“Work”** means the services to be performed and materials to be furnished and/or installed by Subcontractor or its Agents in accordance with the terms of this Agreement and the SOW.
  - l. **“Work Site”** means any house, building, project or other location where Subcontractor is performing any of the Work.
  - m. **“Work Site Policies and Conduct Requirements”** means the policies and requirements provided to Subcontractor by Company, as amended from time to time by Company, which sets forth current

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rules, regulations and policies regarding Subcontractor's conduct at the Work Site.

2. **TERM.** This Agreement is effective as of the Effective Date and will continue in full force and effect unless and until terminated by either party as provided in Section 21 of this Agreement.

3. **PERFORMANCE OF WORK.**

- a. Subcontractor will perform the Work and furnish at its own expense all labor, equipment, utilities, materials, services and other items required to complete the Work in accordance with the terms of this Agreement and the appropriate SOW. SUBCONTRACTOR MUST PERFORM ALL WORK DIRECTLY AND MAY NOT HIRE OR USE SUB-SUBCONTRACTORS OR OTHER PERSONS WITHOUT COMPANY'S EXPRESS PRIOR WRITTEN APPROVAL. Subcontractor will perform all Work in a good and workmanlike manner according to the highest standards of Subcontractor's trade. Subcontractor agrees that, even if not specified in the appropriate SOW, the Work includes, but is not limited to, any item of labor, equipment, utility, material, and service that is (A) reasonably implied or customarily furnished by a subcontractor performing work of the type described in the SOW, (B) required to comply with any applicable Laws, or (C) necessary to obtain any inspection or approval required to be obtained by Company.
- b. Subcontractor will supply a sufficient and competent workforce with the skills necessary to perform and complete the Work in accordance with this Agreement and the SOW. Subcontractor and its Agents will at all times comply with the Work Site Policies and Conduct Requirements while at the Work Site and while performing Work hereunder. If Company determines and notifies Subcontractor that any Agent of Subcontractor is incompetent or otherwise detrimental to the satisfactory performance of the Work, or is not complying with the Work Site Policies and Conduct Requirements, Subcontractor will immediately remove such Person from the Work Site.
- c. Subcontractor will provide all materials required for the Work. Such materials will be new, the best of their respective kinds, and from the same manufacturer, unless otherwise specified in writing by Company. Materials will be clean, free from Defects, delivered in appropriate containers, and contain all manufacturers' information. Subcontractor will be responsible for examining such materials and using or installing same in a manner that will ensure proper completion of the Work.
- d. Company may issue Change Orders (i) to change any portion of the Work if Company determines that such change is necessary or desirable, or (ii) to eliminate any portion of the Work if Company deems such Work to be unnecessary for completion of the project. Subcontractor will perform all Work as described in any Change Order. SUBCONTRACTOR WILL NOT MAKE CHANGES IN THE WORK, NOR PERFORM EXTRA WORK FOR THE CUSTOMER, WITHOUT THE PRIOR WRITTEN APPROVAL OF Company. Subcontractor understands and agrees that Subcontractor will receive no compensation in addition to that stated in the appropriate SOW without first obtaining such prior written authorization from Company.

4. **COMPLIANCE WITH LAWS; INSPECTIONS; OBTAINING PERMITS.**

- a. SUBCONTRACTOR UNDERSTANDS, AND SHALL BE SOLELY RESPONSIBLE FOR COMPLIANCE WITH, ALL LAWS APPLICABLE TO THE WORK. ALL WORK WILL BE PERFORMED SO THAT ALL APPROVALS AND ALL INSPECTIONS OF THE APPROPRIATE GOVERNMENTAL AGENCIES CAN BE OBTAINED WITHOUT DELAY OR ADDITIONAL EXPENSE TO COMPANY. UNLESS COMPANY SPECIFICALLY AGREES TO THE CONTRARY IN A SOW, SUBCONTRACTOR WILL SECURE AND PAY FOR ALL BUILDING AND OTHER PERMITS AND LICENSES NECESSARY FOR THE WORK.
- b. UPON TERMINATION OF THIS AGREEMENT FOR ANY REASON, SUBCONTRACTOR WILL TRANSFER ANY LICENSES AND PERMITS IF AND TO THE EXTENT ALLOWED BY APPLICABLE LAWS, TO COMPANY.
- c. SUBCONTRACTOR UNDERSTANDS, AND SHALL BE SOLELY RESPONSIBLE FOR COMPLIANCE WITH, THE PROVISIONS OF ALL APPLICABLE LOCAL, STATE AND FEDERAL

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SOCIAL SECURITY, UNEMPLOYMENT COMPENSATION, WORKERS COMPENSATION, SALES AND USE TAX, WITHHOLDING TAX AND OTHER TAX LAWS NOW OR HEREAFTER IN EFFECT, AND SHALL PAY ALL AMOUNTS REQUIRED THEREUNDER. SUBCONTRACTOR WILL ALSO COMPLY WITH THE IMMIGRATION REFORM AND CONTROL ACT OF 1986, AS AMENDED.

5. **TIMING OF WORK.** TIME IS OF THE ESSENCE IN PERFORMANCE OF SUBCONTRACTOR'S OBLIGATIONS UNDER THIS AGREEMENT. Subcontractor will begin the Work as specified in the applicable SOW. Subcontractor will coordinate its Work with Company and other subcontractors of Company so that there will be no delay or interference with other work being performed. Subcontractor will perform the Work diligently to completion and will at all times comply with and conform to the SOW. Upon Company's request, Subcontractor will furnish to Company full progress reports regarding the Work. If Subcontractor falls behind in performance of the Work or furnishing the necessary materials in accordance with the SOW, then Subcontractor will take whatever action is necessary, including without limitation, increasing its work force, number of shifts, overtime operations, working on weekends, and obtaining additional equipment, at Subcontractor's sole expense, to timely complete the Work. If a delay is caused by the Subcontractor's failure to furnish labor or materials, and such delay (whether or not caused in part by others) causes Company to incur any loss or any other liability, including but not limited to liabilities incurred by Company to complete the Work itself or to hire another subcontractor to complete the Work, then, in addition to all other remedies available to Company hereunder, Company may require Subcontractor to reimburse Company for such portion of the loss or liability incurred by Company caused by Subcontractor's delay.
6. **SHORTAGES.** To avoid delay in the Work schedule, Subcontractor will give Company immediate notice of any shortage of any materials, labor, equipment or other items necessary for Subcontractor to complete the Work. The giving of such notice will not excuse Subcontractor from its duty to follow the Work schedule. Any substitute materials, equipment, or supplies must be approved by Company and, as determined by Company in its sole discretion, will be equal to or better than those originally required as part of the Work.
7. **SAFETY.** Subcontractor will take all reasonable safety precautions, while performing the Work and while at the Work Site, in accordance with the highest industry standards and any applicable Laws. Subcontractor is solely responsible the safety of its Agents while performing work or while at the Work Site, as well as for maintaining the Work Site in a safe manner for the benefit of other Persons who may have access to the Work Site.
8. **WORK SITE CONDITIONS.** Before commencing any Work, Subcontractor will examine, and thereafter will continue to thoroughly examine, the Work Site and the SOW relating to such Work, including any plans, specifications or drawings provided therewith. Subcontractor represents and warrants that it will proceed with Work solely in reliance upon its own information and investigations, and not upon any statement or representation made by Company concerning the Work or Work Site conditions. SUBCONTRACTOR WILL IMMEDIATELY STOP WORK AND NOTIFY COMPANYy IF (I) ANY DANGEROUS CONDITIONS AT THE WORK SITE ARE IDENTIFIED, INCLUDING THE PRESENCE OF ANY HAZARDOUS MATERIALS, INCLUDING BUT NOT LIMITED TO ASBESTOS, AND (II) ANY DEVIATIONS OR DISCREPANCIES BETWEEN THE SOW AND WORK SITE ARE DETECTED, INCLUDING AS A RESULT OF ANY WORK ALREADY COMPLETED BY ANOTHER SUBCONTRACTOR. If the Subcontractor disregards any of the foregoing, or attempts to correct the situation without first notifying Company, Subcontractor will not be entitled to any compensation for unauthorized Work done, and will be responsible for the cost to repair any improper work or the damage resulting from Subcontractor's unauthorized Work.
9. **CLEAN WORK SITE.** At the end of each Work day, or at such other frequency designated by Company, Subcontractor will remove all waste material and trash related to such Work. Subcontractor is solely responsible for the disposal of all such debris, including of any hazardous materials, in accordance with all applicable laws. Immediately after completing the Work, Subcontractor will remove all of its tools,

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- equipment and excess material and will leave Work Site in clean, pre-loss condition.
10. **PROTECTION OF PROPERTY.** Subcontractor will secure and protect all materials, the Work performed by it and the Work Site (including securing the Work Site at the end of each Work day). Subcontractor will also protect all property surrounding the Work Site from any damage that may result from the Work. During the performance of the Work, Subcontractor will protect the property and materials of other subcontractors and will not damage the work of the other subcontractors and suppliers. Subcontractor will at all times be responsible for any Defect in the Work, damages to material or damages to property caused by or resulting from its or its Agents failure to exercise due care in (i) securing and protecting the material, Work, Work Site or property of Company or others at the Work Site, or (ii) protecting the property surrounding the Work Site.
  11. **STORAGE.** Company will not provide any facilities for the storage of Subcontractor's materials, tools or equipment. Company may, in its sole discretion, allow Subcontractor to store its materials, tools or equipment at the Work Site; however, Company takes no responsibility for Subcontractor's materials, tools or equipment while being stored. Subcontractor will store materials off the ground, protected from the weather, and maintain storage areas in a neat, safe, and sanitary condition. Under no circumstances will Subcontractor store hazardous materials at the Work Site.
  12. **LOSSES.** Until all materials have been fully installed and Work has been completely performed in accordance with the SOW and accepted by Company, Company will not be responsible for loss or damage to the Work or loss or damage to Subcontractor's materials. Losses from theft, vandalism or events of force majeure are the responsibility of Subcontractor until the Work has been completely performed by Subcontractor and accepted by Company. Subcontractor will hold Company harmless from any loss or damage to the Work or to Subcontractor's materials.
  13. **INSPECTIONS.** Company will be entitled to inspect materials and workmanship at all times at the Work Site, at Subcontractor's place of business or at any other place where material to be furnished under this Agreement are found. Upon satisfactory completion of the Work, or a portion of the Work for which Subcontractor is requesting payment, Company will be entitled to inspect such Work and approve payment in accordance with the Subcontractor Policies & Procedures. Inspection by Company is not a representation or acknowledgement by Company that the Work has been performed correctly and does not relieve Subcontractor of any obligations under this Agreement. If the Work or the Work Site fails any inspection, in whole or in part, as a result of Subcontractor's Work, Subcontractor will be responsible for correcting the deficiencies and will be responsible for paying all fines and re-inspection fees.
  14. **SUBCONTRACTOR WARRANTY.**
    - a. Subcontractor warrants and guarantees that all Work performed by Contractor or its Agents will be free from Defects for the applicable warranty periods set forth below. Unless applicable Laws provide for a longer warranty period (in which event the longer period will apply), commencing on the date the Work is accepted by Company, Subcontractor warrants and guarantees, (i) all material and workmanship for one year, and (ii) all material, workmanship and performance of mechanical and structural systems for two years. If the Work is on a project covered by State Farm's Premier Service Program (a copy of which has been provided to Subcontractor), Subcontractor hereby agrees to warrant all materials it provides for one year and to warrant its workmanship for five years. For purposes of this section "mechanical and structural systems" will include, by way of illustration and not limitation, electrical, communication, plumbing, fire protection, heating, cooling, ventilation, foundation, framing, thermal and moisture protection and truss systems, and items of equipment.
    - b. If Company is notified of a Defect within the warranty period set forth above, but Company cannot reasonably notify Subcontractor until after the warranty period expires, Subcontractor will remain obligated to correct or repair the problem at no charge to Company. Subcontractor's warranties and guaranties will survive termination of this Agreement for any reason.

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- c. To the extent that Subcontractor is providing items such as appliances, fixtures or interior furnishings as a part of the Work, Subcontractor will place any manufacturer's warranty with or near the supplied item at the time of delivery and installation. To the extent Subcontractor is providing any other materials as a part of the Work, Subcontractor will deliver to Company any applicable manufacturer's warranties on materials furnished by it. Subcontractor hereby assigns to Company all warranties, of any kind, from its Agents, with respect to the Work.
15. **WARRANTY WORK.**
  - a. Subcontractor will provide at its own expense all labor and materials required to cure any Defects in Work performed, or as is necessary to fulfill Subcontractor's warranties and guaranties in Sections 3, 8 and 14 ("Warranty Work"). Subcontractor will warrant and guarantee Warranty Work for the longer of the expiration of the warranty period in Section 14, or 90 days from Company's acceptance of such Warranty Work. Company reserves the right to ascertain whether a Defect exists and whether warranty repair or replacement is required in its sole discretion.
  - b. Company will give Subcontractor prompt written notice of any Warranty Work required whenever possible; however, notice may also be given verbally if necessary. Unless otherwise specified by Company, Subcontractor will contact the homeowner within two business days, and begin Warranty Work within three business days, of being notified that such Work is required. Subcontractor will work diligently to complete such Warranty Work as promptly as possible, but in any event within ten days from the date that the Warranty Work began. If the Defect or Warranty Work results in damage to other materials, equipment, or work, as determined by Company in its sole discretion, Subcontractor will be responsible for the cost and expense to repair or replace same.
  - c. If the Warranty Work is not satisfactorily completed by Subcontractor as set forth in (b) above, or if the Warranty Work is an emergency, as determined by Company in its sole discretion, Company will have the right to perform the Warranty Work itself or use another Person to perform the Warranty Work at Subcontractor's sole expense. Subcontractor agrees to promptly reimburse Company for any such expenses.
16. **PRICE.** Subcontractor will furnish all Work required by this Agreement for the price specified in the SOW for each project. Subcontractor will not be entitled to any increase in the prices set forth in the SOW, even if Subcontractor's cost to perform the Work (including labor and materials), may increase during the term of this Agreement. Subcontractor acknowledges and agrees that, unless specifically stated otherwise in the SOW, the prices set forth in any SOW include: the cost of compliance with all applicable Laws; the cost of complying with the requirements of all Government Agencies having jurisdiction over the Work; all applicable sales and use taxes; and all state and local license fees, permits, and other fees of any kind or nature whatsoever related to the Work covered by the SOW. If Subcontractor performs extra work or changes the Work without a Change Order signed by Company, Subcontractor will not be entitled to any payment or other compensation therefore.
17. **PAYMENT.** Payment will be due under this Agreement when Subcontractor has complied with the Subcontractor Policies & Procedures. Subcontractor must bill, and Company will make payment, in accordance with the Subcontractor Policies & Procedures. Company will not be obligated to make any payment to Subcontractor at any time when Subcontractor is not in compliance with the terms of this Agreement and the Subcontractor Policies & Procedures. Company may, at its option, issue joint checks in payment for the Work. No payments will be due under this Agreement until Subcontractor has signed an acceptable statement of satisfaction authorizing payment for the Work being billed and delivered a full and complete release of all liens for materials and labor furnished in connection with the Work. Company may also require an affidavit that, so far as Subcontractor is able to ascertain, no Person has a right to any such lien for materials or labor. If any lien remains outstanding after all payments are made, Subcontractor will refund to Company all monies that it may be compelled to pay in discharging and releasing such lien.



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- a. No payment made to Subcontractor for any of the Work will be deemed as an acceptance by Company of any part of the Work, will be construed as a waiver by Company of later found Defects, or will release Subcontractor from its liability for Defects or Warranty Work.
  - b. Company may reduce any payment for any costs that Company incurs or reasonably expects to incur as a result of Subcontractor's failure to comply with this Agreement or as a result of Subcontractor's failure to pay its Agents.
  - c. Subcontractor will promptly and timely pay all of its Agents, including its employees. In addition to and not in substitution of the SOW and Subcontractor Policies & Procedures, and as a condition precedent to any obligation of Company to make payments to Subcontractor under this Agreement, Subcontractor will, if requested by Company, furnish written evidence satisfactory to Company that (i) all claims or demands of Subcontractor and of its Agents have been paid, (ii) all wages, benefits, and sums withheld pursuant to applicable laws have been paid, and (iii) all other items and matters used by Subcontractor in its performance of this Agreement have been paid for. Such written evidence will be furnished on such forms and in such a manner as may be reasonably requested by Company and all statements made by Subcontractor relative thereto will be made by affidavit or under penalty of perjury. Company may, on Subcontractor's behalf, pay and satisfy any Agent furnishing labor or materials to Subcontractor in the performance of the Work, including any Person who may have a cause of action against any surety of Company or lien rights against the Work Site or any part thereof. Such payment, in Company's sole discretion, may be made directly to any Agent or jointly to Subcontractor and such Agent. Direct payment may at Company's option include Subcontractors payroll obligations incurred. Subcontractor will indemnify and hold Company harmless from all claims by any of its Agents relating to any Work, including claims of non-payment. Nothing contained in this section specifically, or in this Agreement generally, will be construed to be for the benefit of any Person not a party to this Agreement, and no third-party beneficiary rights are created hereby.
18. **TRADE SECRETS.** As used in this Agreement, the term "Trade Secrets" will be broadly interpreted to include all information relating to Company's operations, services, clients or potential clients, and any information which gives Company a business advantage over its competitors. Subcontractor agrees that all Trade Secrets are and will remain the sole and exclusive property of Company, whether or not Subcontractor participated in the development or acquisition of same. Subcontractor agrees that it and its Agents (i) will maintain the Trade Secrets in the strictest confidence and not disclose any Trade Secret to any Person, and (ii) will not use any Trade Secrets for any purpose other than for the performance of the Work, and specifically not for its own benefit or the benefit of any Person other than Company, and (iii) will return all Trade Secrets, including all copies thereof, to Company upon request or upon termination of this Agreement. Subcontractor will take all steps necessary to ensure that its Agents understand and comply with the requirements of this section. If Subcontractor or its Agents fails to maintain the confidentiality of any information covered by this section, Company retains the right to pursue any and all remedies available with respect to the misuse, misappropriation, or unauthorized dissemination of such information, by Subcontractor or its Agents, including, but not limited to, obtaining a temporary restraining order, preliminary injunction or other appropriate form of equitable relief from any court of competent jurisdiction. Nothing contained herein will limit the right of either party to declare the other party in default under this Agreement or to seek monetary damages in addition to such injunctive relief.
19. **NONSOLICITATION.** SUBCONTRACTOR HEREBY AGREES THAT DURING THE TERM OF THIS AGREEMENT AND FOR TWO YEARS AFTER TERMINATION HEREOF FOR ANY REASON, SUBCONTRACTOR WILL NOT (I) RECRUIT, SOLICIT OR PERFORM ANY WORK FOR, OR RECEIVE ANY COMPENSATION FROM, ANY PERSON FOR WHOM SUBCONTRACTOR PERFORMED SERVICES OR PROVIDED PRODUCT DURING THE TERM OF THIS AGREEMENT, (II) INDUCE OR ATTEMPT TO INDUCE ANY CUSTOMER, SUPPLIER, OR OTHER BUSINESS RELATION OF COMPANY TO CEASE

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DOING BUSINESS WITH COMPANY, (III) INTERFERE IN ANY WAY WITH THE RELATIONSHIP BETWEEN ANY CUSTOMER OR BUSINESS RELATION AND COMPANY, OR (IV) SOLICIT OR ATTEMPT TO SOLICIT ANY OF COMPANY'S EMPLOYEES TO TERMINATE THEIR EMPLOYMENT WITH COMPANY OR ACCEPT EMPLOYMENT WITH ANOTHER PERSON.

### 20. INSURANCE

- a. Subcontractor will, at its sole cost and expense, obtain and maintain insurance with the following types of coverage and limits of liability:
  - i. Workers Compensation & Employers Liability\$
    1. \$500,000 Each Accident
    2. \$500,000 Disease – Each Employee
    3. \$ 500,000 Disease – Policy Limit
  - ii. Commercial Automobile Liability
    1. \$1,000,000 Combined Single Limit
  - iii. General Liability
    1. \$1,000,000 Each Occurrence
    2. \$2,000,000 General Aggregate Per Project/Location
    3. \$2,000,000 Products/Completed Operations Aggregate
    4. \$1,000,000 Personal & Advertising Injury Limit
    5. \$ 50,000 Fire Damage Legal Any One Fire
    6. Additionally this General Liability policy should include the following coverage:
      - a. Premises and Operations Liability coverage
      - b. Owners and Contractors Protective Liability coverage
      - c. Products and Completed Operations Liability coverage
      - d. Broad Form Property Damage Liability coverage including Completed Operation Coverage
      - e. Blanket Contractual Liability coverage including, to the maximum extent possible, coverage for indemnification of Contractor contained in this Agreement and the obligations under this Agreement
      - f. Environmental/Pollution Liability coverage, if required by Company (e.g. for HVAC, mold and asbestos remediation) in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate
      - g. Professional Liability coverage, if required by Company (e.g. for Engineers) in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate
  - iv. And, such other insurance in such amounts, as may from time to time be reasonably required by Company against the same or other insurable hazards
- b. SUBCONTRACTOR WILL DELIVER TO Company A WAIVER OF SUBROGATION OF ANY RIGHTS THAT ITS INSURERS MAY HAVE OR ACQUIRE AGAINST THE ADDITIONAL INSURED BY VIRTUE OF PAYMENT OF ANY SUCH LOSS COVERED BY SUCH INSURANCE. Subcontractor, for itself and on behalf of its insurers, to the extent legally possible without voiding the insurance required under this Agreement, hereby waives and releases Company from liability for any loss, damage or loss of property relating to the Work or at the Work Site, which loss or damage is covered by said insurance.
- c. All insurance policies that Subcontractor is to maintain under this Agreement, with the exception of the Workers' Compensation and Employer's Liability policies, will name Company as an additional insured. The additional insured will be provided the same coverage as provided Subcontractor, and such additional insured coverage will include completed operations coverage. All policies will provide that the additional insured coverage will be primary and that any other insurance coverage

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carried by or otherwise available to the additional insured will be excess and will not contribute with this additional insured coverage. All endorsements and exclusions effecting such additional insured coverage must be provided to, reviewed by, and found acceptable by Company.

- d. PRIOR TO EXECUTING THIS AGREEMENT, SUBCONTRACTOR WILL GIVE COMPANY A CERTIFICATE OF INSURANCE ISSUED BY THE INSURANCE CARRIER PROVIDING COVERAGE, ACCOMPANIED BY THE ENDORSEMENTS SHOWING THE REQUIRED ADDITIONAL INSURED COVERAGE, A COPY OF EACH INSURANCE POLICY AND EVIDENCE OF PREMIUM PAYMENTS. These documents must be satisfactory to Company. Throughout the term of this Agreement, Subcontractor will furnish Company with the documentation described in the preceding sentence evidencing renewal of all insurance required to be maintained by Subcontractor under this Agreement not less than 30 days prior to the expiration of the insurance.
- e. Each insurance policy carried pursuant to this Agreement must be issued by an insurance company acceptable to Company, licensed to do business in Colorado, with a rating classification of "B+" or better, and provide that such insurance will not be cancel-able, be subject to non-renewal, or otherwise be subject to material modification, except with 30 days' prior written notice to Company. Subcontractor will maintain all such policies from the time that any Work is commenced, through the expiration of Subcontractor's warranty period, as same may be extended for any required Warranty Work. In addition, Commercial General Liability Insurance coverage, including additional insured coverage for Company, will be maintained in force until expiration of the applicable statute of limitations for claims related to latent defects and construction improvements for real estate. Insurance required by this Agreement may be part of a blanket policy of insurance so long as such blanket policy contains all of the provisions required hereby and does not reduce the coverage or impair the rights of Company under this Agreement.
- f. Subcontractor hereby agrees to immediately notify Company of any notice of cancellation received from an insurance carrier relating to a policy required by this Agreement.
- g. If Subcontractor, with Company's express written permission, subcontracts any portion of its duties, including the obtaining of materials or equipment from any source other than Company, Subcontractor will require such Person to purchase and maintain insurance coverage of the same type, requirements and limits as provided in this section. Subcontractor will give Company all documents evidencing same.
- h. In the event Subcontractor fails to maintain the insurance coverage required by this Agreement, such action will constitute a material breach of this Agreement entitling Company to exercise any and all rights and remedies under this Agreement. In addition, Company may, at its option, purchase such coverage and back charge the expense to Subcontractor

### 21. TERMINATION

- a. At its sole option, Company may terminate this Agreement at any time for any reason. If Company terminates this Agreement for a reason other than Subcontractor's breach of or failure to perform any obligation arising under this Agreement, Company will pay Subcontractor the applicable price for the Work which is completed and accepted by Company. If this Agreement is terminated by Company as a result of Subcontractor's breach or failure to perform any obligation arising under this Agreement, Company will have the right, in addition to all other remedies available to it, including those set forth in Section 22 to offset any of its damages resulting from Subcontractor's breach against any payments due to Subcontractor.
- b. Subcontractor may terminate this Agreement upon 30 days' prior written notice for any reason. Subcontractor will have the right to suspend performance of the Work on the Work Site (i) upon written notice if any court or other Government Agency having jurisdiction over the Work Site orders the Work to be stopped for 90 days or more through no fault of Subcontractor or its Agents, or (ii) upon five days' prior written notice if Company should fail to act upon any fully

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documented request for payment within 60 days after it is presented in accordance with all of the requirements of this Agreement.

### 22. BREACH

- a. Subcontractor will be in material default and breach of this Agreement if:
  - i. Subcontractor or its Agents fail to comply with any provision of this Agreement or are negligent in the performance of the Work
  - ii. Any person files or threatens to file a claim of lien or any other claim against Company as a result of Subcontractor's acts or omissions
  - iii. Subcontractor is unable to meet its financial obligations, files for protection under the bankruptcy laws of the United States of America, or has a receiver appointed on account of insolvency
  - iv. Subcontractor infringes upon or violates any third-party proprietary rights in the performance of the Work.
- b. In the event Subcontractor breaches this Agreement, Company may terminate this Agreement without prejudice to any other rights or remedies available to it under applicable laws or in equity, or Company may, without terminating this Agreement:
  - i. Require Subcontractor, at its own expense to replace and correct Defects, and cure such other defaults as may exist in the performance of Subcontractor's obligations within 24 hours of notification
  - ii. Engage other Persons to correct and repair Defects or to complete the Work without further notice
  - iii. Engage other Persons to perform such portion of the Work or furnish any materials or services as Company, in its sole discretion, may deem necessary to avoid delay in the progress of the Work
  - iv. Use any of Subcontractor's materials or equipment on the Work Site to complete the Work or correct Defects (Subcontractor agrees to not remove such materials and equipment from the Work Site unless so directed in writing by Company)
  - v. Pursue any other rights or remedies available to it under applicable Laws or in equity
- c. Subcontractor agrees as follows:
  - i. To the fullest extent permitted by law, Subcontractor will indemnify, defend (at Subcontractor's sole cost and expense and with legal counsel reasonably approved by Company), and hold harmless Company, affiliated companies of Company, their partners, affiliates, joint ventures, representatives, members, designees, officers, directors, shareholders, employees, agents, successors, and assigns ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, delays, obligations, damages, actions, causes of action, suits, losses, judgments, settlements, fines, penalties, trademark, copyright, and any liabilities, costs and expenses (including, without limitation, investigative and repair costs, in-house legal costs and expenses, including reasonably allocated salaries and overhead), attorneys' fees, disbursements and court costs, and all other professional, expert, or consultants' fees and costs of every kind and nature whatsoever) ("Claims"), which arise out of or are in any way connected with the Work performed, materials furnished, or services provided under this Agreement by Subcontractor or its Agents. Subcontractor's duty to indemnify, defend and hold harmless hereunder will apply to any act or omission, willful misconduct, or negligent conduct on the part of Subcontractor, any of its Agents, employees, or any person for whom Subcontractor may be liable.
  - ii. The indemnification obligations of Subcontractor under this Agreement will NOT be limited by the amounts or types of insurance (or the deductible or self insured retention

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amounts of such insurance), which Subcontractor is required to carry under this Agreement. The Indemnified Parties' rights to indemnification by Subcontractor under this Paragraph will be independent of the Indemnified Parties' rights under the insurance to be provided by Subcontractor under this Agreement.

- iii. Subcontractor's indemnification and defense obligations hereunder will extend to claims occurring after this Agreement is terminated, and will continue until it is determined by final judgment that any and all actions against the Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable laws.
  - iv. Subcontractor's liability for indemnification and defense hereunder is in addition to any liability Subcontractor may have to the Indemnified Parties for a breach by Subcontractor of any of the provisions of this Agreement. The indemnification obligation will not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that exists as to any Indemnified Party. The provisions of this section will not apply to any claims that arise out of the sole gross negligence or willful misconduct of the Indemnified Parties.
  - v. Subcontractor will reimburse Company for any Claims or losses incurred by Company within five (5) business days of notification from Company. Company may deduct payments made from any monies due or to become due to Subcontractor pursuant to this Agreement or any other agreement with Company. Company may withhold from any monies due to Subcontractor such sums as Company will deem reasonably necessary to protect Company from any Claims under this section.
- d. Subcontractor and Company acknowledge that during its performance of this Agreement, Subcontractor may also be under contract with Company or its affiliate for work at other projects. At Company's sole election, a breach in the performance of Subcontractor's obligation under any other agreement with Company, or Company's affiliate, will constitute a breach by Subcontractor under this Agreement.

### 23. MISCELLANEOUS

- a. In no event will Company be obligated to authorize Subcontractor to work on any Work Site. Company may engage others to accomplish work of the same trade, including at the same Work Site that Company is performing Work.
- b. Subcontractor, in the performance of its Work, is an independent contractor and is solely responsible for the employment, acts, omissions and control of its Agents. Nothing contained in this Agreement will authorize Subcontractor to create any obligation of, or otherwise bind, Company in any manner.
- c. Unless otherwise specified herein, any notice given in accordance with this Agreement may be given either by personal delivery, facsimile, email or by certified mail, return receipt requested, sent to Company at 2301 S. Jason St Denver, CO 80223.
- d. Notice will be deemed given upon the earlier of actual receipt or (i) five days after deposit of such notice in the U.S. Mail, postage prepaid, addressed as noted above, (ii) upon receipt of confirmation of delivery by a reputable courier, or (iii) upon receipt of confirmation of facsimile transmission of such notice
- e. Exhibit A attached hereto, all SOWs (including the estimates, purchase orders and any details, plans, specifications, standards or drawings, relating to the Work provided by Company to Subcontractor), including the Subcontractor Policies & Procedures and the Work Site Policies and Conduct Requirements, are incorporated herein by reference. This Agreement, including Exhibit A and all SOWs, the Subcontractor Policies & Procedures and the Work Site Policies and Conduct Requirements, constitute the entire Agreement between Company and Subcontractor relating to the subject matter hereof and supersede all prior agreements and understandings, oral or written.

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Except as expressly provided herein, this Agreement may only be modified by written amendment executed by Company and Subcontractor, provided however that Company may modify Exhibit A in its sole discretion.

- f. The laws of the State Colorado, without regard to conflict of laws principles, will govern this Agreement. Subcontractor hereby waives and relinquishes its right to commence or maintain an action at law or in equity arising out of this Agreement in any place other than the City and County of Denver, State of Colorado.
- g. The parties hereto agree that upon the violation of the provisions hereof, and specifically Sections 18 and 19, monetary damages would be inadequate. The parties therefore agree that upon the existence of any such violation or threatened violation, either party may obtain a temporary restraining order, preliminary injunction or other appropriate form of equitable relief from any court of competent jurisdiction. Nothing contained herein will limit the right of either party to declare the other party in default under this Agreement or to seek monetary or other damages in addition to such injunctive relief or substitution therefore.
- h. If any provision of this Agreement is held by a court of competent jurisdiction to be void or unenforceable, the same will not affect any other portion of this Agreement and the remainder will be effective as though such provision had not been contained herein.
- i. Subcontractor may not assign or transfer this Agreement, or any part hereof, or make an assignment or transfer of any monies payable to Subcontractor pursuant to this Agreement, without the prior written authorization of Company. Company may assign this Agreement and its rights and obligations hereunder to any Person, and this Agreement may be assumed and will inure to the benefit of Company's successors and assigns, without the consent of Subcontractor.
- j. Either party's failure to insist upon strict compliance with any provision hereof or failure to enforce any rights or remedy in any instance will not constitute or be deemed to be a waiver of such provision, right or remedy in the absence of a signed writing by such party agreeing to such waiver.
- k. Employees, officers, and directors of Company or its affiliates may not use their position with Company to personally benefit from the purchase of goods or services from a supplier or subcontractor. Company employees, officers and directors are prohibited from utilizing the services of, or obtaining goods from, suppliers or subcontractors for personal work, repairs, or construction exceeding \$500.00 without the prior approval of Company's President or Vice President. Subcontractor acknowledges that Subcontractor will not encourage or in any manner participate in any course of conduct or activities which would cause a violation of the policies described in this section.
- l. As a condition precedent to Subcontractor or its Agent recording or filing any lien under or relating to this Agreement, Subcontractor and its Agents will first submit notice of intent to file a lien with Company via certified U.S. Mail, first class, postage prepaid, and return receipt, along with all supporting documentation purporting to substantiate such lien enclosed therewith, and will thereafter meet with Company in person to review such documentation and surrounding circumstances. Subcontractor further agrees that Subcontractor and its Agents will not record or file any lien in any real property records until not less than ten business days after Company has received such supporting documentation, as evidenced by the date shown on the return receipt.
- m. Subcontractor hereby agrees to release and waive any rights it or its sub-subcontractors or materialmen may have under Colorado statutes and common law regarding mechanic's liens, stop notices, or bond rights that the undersigned may have regarding any and all Work performed pursuant to this Agreement.
- n.
- o. TO THE EXTENT PERMITTED BY LAW, COMPANY AND SUBCONTRACTOR, AND THEIR

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RESPECTIVE OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES AGREE THAT EACH SHALL, AND DO HEREBY, WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY, BETWEEN OR AGAINST THE PARTIES HERETO OR THEIR SUCCESSORS OR ASSIGNS OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES ON ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT. THIS WAIVER IS MADE FREELY AND VOLUNTARILY, WITHOUT DURESS AND ONLY AFTER EACH OF THE PARTIES HERETO HAS HAD THE BENEFIT OF ADVICE FROM LEGAL COUNSEL.

- p. If any party institutes any action, whether legal or equitable, to enforce or construe any term or provision of this Agreement, the prevailing party in such action will be entitled to collect from the adverse party thereto its reasonable costs and attorneys' fees.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the Effective Date.

SUBCONTRACTOR:

ABBOTTS FIRE & FLOOD

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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



## SUBCONTRACTOR POLICIES & PROCEDURES

These policies and procedures are effective as of April 1, 2014, and supersede any prior written or verbal policies or procedures relating to the matters addressed below.

### SUBCONTRACTOR SETUP (PRIOR TO START OF ANY WORK)

1. Abbotts Fire & Flood must have a fully executed Subcontractor Agreement on file, including all insurance certificates and other documents required under the Subcontractor Agreement.
2. All subcontractor insurance must be issued by an insurance company rated A- or better by A.M. Best. All liability policies must include coverage for work performed by subcontractor on residential properties, and may not limit or exclude Abbotts Fire & Flood's rights under the Subcontractor Agreement.

### CONTRACT AUTHORIZATION (PRIOR TO START OF ANY WORK)

1. A signed Statement of Work ("SOW"), which includes any estimate, additional plans, specifications or drawings, and a Purchase Order ("PO") are required **in advance** on **EVERY** job assignment. The SOW, together with attachments, defines the terms and conditions of the work agreed to by Abbotts Fire & Flood and Subcontractor. The PO provides the Subcontractor with authorization to start the work. **ANY** work completed without SOW and PO are not authorized by Abbotts Fire & Flood and will not be accepted for payment.
2. A verbal SOW and PO will **ONLY** be provided for work **REQUIRED** on an after hours, emergency service basis. For all verbal SOW and POs, Subcontractor is solely responsible for obtaining a written SOW and PO from Abbotts Fire & Flood by the next business day. Any verbal PO related issues will be directed to Abbotts Fire & Flood's General Manager.
3. For all non-structure related work (e.g., fabric restoration, mechanical cleaning, structure board-up and shoring, temporary power, electronic restoration, etc.), Abbotts Fire & Flood will only provide Subcontractor with a SOW and PO.
4. For all structure related reconstruction work (e.g., carpentry, plumbing, electrical, mechanical, roofing, flooring, drywall, painting, etc.), Abbotts Fire & Flood will provide subcontractor with a detailed Scope of Work and PO. The scope will define the scope of work in detail, line by line, the work that the subcontractor is **REQUIRED** to complete in order to fulfill the contract. Subcontractor must complete all lines item **EXACTLY** as described in the scope. Any and all modifications subcontractor may have to the scope be approved in writing with a new SOW and PO prior to the start of **ANY** work.

### PAYMENT AND INVOICING

1. Within 7 days of completion of each project, Subcontractor will provide Abbotts Fire & Flood with the following:
  - a. Subcontractor's Invoice
  - b. Scope of Work (SOW)
  - c. Purchase Order (PO)
  - d. Certificate of Completion and Acceptance
  - e. Conditional Lien Waiver form (if applicable)
2. Invoices will be paid net 30 from Abbotts Fire & Flood's receipt and acceptance of the invoice, including all the proper paperwork outlined above.
3. Each PO must be invoiced separately even if performed for the same job.



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4. All invoices must be addressed to the Accounting Department. Invoices not properly addressed will delay payment.
5. Each invoice submitted must reference the customer name, job number, job address, and PO number.

### CHANGE ORDER (PRIOR TO START OF ANY WORK)

1. All changes to work **MUST** follow the procedures outlined in the Contract Authorization and Invoicing sections of this document. Any work completed without a new SOW and PO will not be accepted for payment.

### WORK SITE POLICIES AND CONDUCT REQUIREMENTS

1. Subcontractor, and its employees, agents and approved sub-subcontractors, will at all times comply with the Work Site Policies and Conduct Requirements, as may be amended by Abbotts Fire & Flood from time to time, while at the Work Site.

### WARRANTY WORK

1. All warranty work initiated under the Abbotts Fire & Flood contract and performed by a subcontractor must be accompanied by a SOW and PO.





## Certificate of Completion and Acceptance

**Customer Name:** \_\_\_\_\_

**Job Address:** \_\_\_\_\_

Abbotts Fire & Flood (AFF) considers work to be completed when it is suitable for the owner to use for its intended purpose. This certificate does not relieve AFF or its subcontractors from any obligation under the work authorization.

**Work Completed:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have inspected the work performed by Abbotts Fire and Flood and/or its subcontractors. I certify that the work listed above has been completed to my satisfaction, in accordance with the original work authorization/Scope of Work.

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Customer's Signature

\_\_\_\_\_  
Printed Name

