

TOTAL CONTRACT PRICE:

Written Dollar Amounts Here\$0,000.00

ACCEPTANCE:

D. J. CONLEY ASSOCIATES INC.

SUBCONTRACTOR

Name: _____

Name: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

GENERAL TERMS AND CONDITIONS

THIS CONTRACTOR AND SUBCONTRACT AGREEMENT (the “Agreement”) is entered into by and between **D. J. CONLEY ASSOCIATES INC.** (the “Prime Contractor”) and the subcontractor identified above (the “Subcontractor”) for the services described in the Project Description above (the “Project Description”) and otherwise performed pursuant to the terms of this Agreement (the “Services”).

1. **CONTRACTUAL RELATIONSHIP:** In the performance of this Agreement, Subcontractor shall operate as an independent contractor. Nothing in this Agreement is intended as, or will be deemed or construed as, creating a relationship of principal and agent, joint venturers, partnership, employer-employee, or franchisor-franchisee. Both parties agree to take such steps as are reasonably requested by the other party to ensure that each party will be deemed an independent contractor. Neither party has the authority to create any obligations for the other, or to bind the other to any representation or document. Neither Subcontractor nor its officers, employees, agents, contractors and subcontractors (and their respective officers, employees and agents) (“Personnel”) will be entitled to participate in any employee fringe benefit provided by Prime Contractor to its employees.

2. **ITEMS TO BE FURNISHED BY SUBCONTRACTOR:** Subcontractor shall supply and furnish at the location where the Services are to be performed all items, including labor, materials and equipment, that are necessary for the complete and satisfactory performance of Services, except for such items as are specifically identified herein to be provided by Prime Contractor or its obliges and obligors, including but not limited to the general contractor, if applicable, and Prime Contractor’s customer (“Other Contracting Parties”).

3. **PERFORMANCE REQUIREMENTS:** Services shall be performed in accordance with all requirements of this Agreement, as well as the specifications and/or drawings incorporated into the principal contract(s) between the Prime Contractor and the relevant general contractor, owner and/or Other Contracting Parties (the “Project Documents”). Subcontractor acknowledges and understands that the Project Description is for convenience only, and is not intended to narrow, supplement or otherwise diminish or change the Subcontractor’s obligation to provide the Services in accordance with the Project Documents. The terms, provisions, specifications and/or drawings of such Project Documents are hereby incorporated into this Agreement, and the Subcontractor represents and warrants that it has reviewed the Project Description and the Project Documents and has the expertise (including, without limitation, all required certifications and/or licenses) and resources necessary to undertake and complete the Services in accordance therewith in the designated timeframe. In case of conflict between the drawings and the specifications included in the Project Documents, the specifications shall govern. Subcontractor agrees to be bound by the terms of this Agreement and all general conditions governing the Project Documents, and, with respect to the Services, to assume toward Prime Contractor and the Other Contracting Parties, as applicable, all of the obligations and responsibilities with respect to the Services that Prime Contractor, by those documents, assumes toward its customer.

4. **CHANGES IN PROJECT DOCUMENTS:** Prime Contractor reserves the right by written notice to correct any errors or to make any changes in the Project Documents. If such changes cause a material increase or decrease in the cost of performing the Services or the time of performance, Subcontractor shall notify Prime Contractor of such increased or decreased costs by submitting a written change order detailing the such the change in such costs prior to commencing additional Services and in any event within ten (10) days after the receiving such notice of change. Upon receipt of such notice, the parties shall negotiate an equitable adjustment to the price and/or the time of performance designated in the Project Description. If the parties cannot agree upon such adjustments, the matter may be submitted to arbitration pursuant to the terms of this Agreement, however, Subcontractor shall nevertheless proceed immediately with the Services as modified pending resolution of such arbitration.
5. **EXTRA SERVICES:** Subcontractor shall not be entitled to any compensation in addition to that specified in the Project Description for the performance of any Services not required under this Agreement, unless prior to the performance of such additional Services, it receives written authorization from Prime Contractor to perform such Services the additional compensation is agreed upon by the parties in writing. For clarification, this Section does not limit Subcontractor's obligations to perform Services based on changed Project Documents pursuant to Section 4 above.
6. **INSPECTION AND REJECTION OF MATERIALS AND WORKMANSHIP:** All Services, materials and workmanship furnished or performed by Subcontractor shall be subject to final inspection, test and acceptance by the Prime Contractor and the relevant Other Contracting Parties at any and all places where such the foregoing are manufactured, furnished or performed, whether or not any of the foregoing are previously paid for by the Prime Contractor. Failure of such inspectors to conduct such an inspection or to discover defective workmanship or material shall not prejudice the Prime Contractor's and/or the Other Contracting Parties to conduct a later or final inspection and test. Subcontractor, at its own expense, shall promptly correct all Services, materials and workmanship that do not comply with any relevant requirements. If Subcontractor fails to replace or correct the rejected Services, material and/or workmanship promptly, Prime Contractor, at its own option may replace or correct the same, and all costs and expenses of Prime Contractor in connection therewith shall be borne by Subcontractor.
7. **TIME OF PERFORMANCE:** Time is of the essence with respect to Subcontractor's obligations to perform the Services. Subcontractor shall indemnify and hold harmless Prime Contractor from and against any cost, penalty or liability incurred because of Subcontractor's failure to perform the Services within the time agreed upon.
8. **EXTENSION OF TIME – SUBCONTRACTOR'S WAIVER OF DAMAGES FOR DELAY:** In case of any delay caused by Other Contracting Parties or any delay which is beyond the reasonable control of Subcontractor, the cause of which was not reasonable ascertainable by Subcontractor at the time this Agreement was entered into, Subcontractor may request an extension of the agreed upon time for the performance of Services, which request shall describe the applicable factors causing the delay. Failure to provide such a request promptly shall be deemed sufficient reason for a denial of an extension of time by Prime Contractor. Prime Contractor shall notify Subcontractor promptly if in its opinion, the cause of delay specified is such as not to entitle Subcontractor to an extension of time. After such cause of delay ceases to exist, Subcontractor shall file with Prime Contractor a statement in writing of the actual delay resulting from such cause. If the cause of delay was beyond the reasonable control of Subcontractor and was not reasonably ascertainable by Subcontractor at the time this Agreement was entered into, a reasonable delay may be approved by Prime Contractor, if permitted by the Project Documents.
9. **ORDER OF PERFORMANCE OF WORK:** Prime Contractor reserves the right to direct the Subcontractor to schedule the order of performance of the Services in such manner as to coordinate work with Other Contracting Parties and Prime Contractor.
10. **REMOVAL OF DEBRIS AND WASTE MATERIAL:** During performance of the Services under this Agreement and upon termination or completion thereof, Subcontractor shall remove all debris and waste material pertaining to arising from Subcontractor's performance of the Services

and keep and leave the site of the Project in a condition satisfactory to Prime Contractor and in accordance with the Project Documents.

11. **DESIGNATION OF SUPERINTENDENT:** Subcontractor shall designate a competent superintendent who, on behalf of Subcontractor, shall have complete charge of all Services. Subcontractor shall advise Prime Contractor in writing of the name, address, and telephone number (day and night) of such designated superintendent and of any changes in such designation.
12. **LIENS AND CLAIMS:** Subcontractor shall indemnify and hold harmless Prime Contractor and the Other Contracting Parties from all claims, demand, causes of action or suits or whatsoever nature arising out of it or its Personnel, under this Agreement. Subcontractor shall immediately pay and discharge, or shall provide security sufficient and satisfactory in itself to its laborers, material men or other creditors, or those of its subcontractors, for the payment of any obligation, or alleged obligations, its, or any of its subcontractors may have, in aid of the enforcement of which as lien or right of any kind is established, or is attempted to be established, upon or against the Project materials, Services or the real property upon which Project location is situated. Prime Contractor may, as a condition precedent to any payment hereunder, require Subcontractor to submit complete waivers and releases of any and all claims of any person, firm or corporation.
13. **INDEMNIFICATION:** Subcontractor shall defend, at its sole expense, any third party claim, demand or suit against Prime Contractor or the Other Contracting Parties (“Claim”) alleging and/or arising out of the following, and shall indemnify and hold Prime Contractor and the Other Contracting Parties harmless from and against any and all losses, liabilities, damages, fines, penalties, costs, expenses and/or fees (including reasonable attorneys’ fees) incurred by, or awarded or assessed against Prime Contractor and the Other Contracting Parties, in connection with the Claim, or reached through a negotiated settlement of the Claim:
 - (a) that any Services, materials or workmanship provided by Subcontractor and/or its Personnel infringe a third party’s patent, copyright, trademark, trade secret or other intellectual property right and/or violates a third party’s contract or other rights;
 - (b) that Subcontractor and/or any of its Personnel were negligent or committed an intentional act that caused injury to a person or damage to property, or failed to comply with any applicable law, statute, regulation or ordinance; and/or
 - (c) Subcontractor’s and/or its Personnel’s breach of this Agreement, including, without limitation, any representation or warranty set forth in this Agreement.
14. **APPROVAL OF PERSONNEL:** Subcontractor agrees that Prime Contractor has the right of initial and continuing approval of Subcontractor’s Personnel, if any, who are rendering Services under this Agreement.
15. **RESPONSIBILITY FOR SERVICES; WARRANTIES:** Subcontractor shall be responsible for all materials delivered and Services performed until completion and final acceptance. Upon completion of the Services, all applicable materials shall be delivered complete and undamaged. Subcontractor warrants that its Services and all materials provided in connection with this Agreement shall comply with the requirements of this Agreement and the Project Documents when performed and for a period of twelve (12) months following after the Services are completed.
16. **INSURANCE AND BONDS:**
 - (a) Subcontractor, at its own expense, shall procure, carry and maintain on all its operation hereunder the bonds and policies of insurance in the amount specified in the Project Description and/or the Project Documents. The bonds and policies of insurance shall be in such form and shall be issued by such company or companies as may be satisfactory to Prime Contractor. Subcontractor shall cause to be furnished to Prime Contractor certificates of insurance from the assuring companies which shall include the following clause: “thirty (30) days advance notice shall be given in writing to D. J. Conley Associates, Inc., on cancellation, termination or any alteration of the policy or policies evidenced by this certificate.”

(b) Subcontractor shall carry Comprehensive General Liability, Comprehensive Auto Liability, Workmen's Compensation, Employer's Liability and such other insurance as may be required by the General Contract in companies acceptable to Prime Contractor and/or the Other Contracting Parties. Prior to commencement of the Services, Subcontractor shall furnish Prime Contractor with certificates evidencing the applicable policies and coverage and specifying that such insurance shall not be canceled, reduced nor allowed to expire except upon the expiration of thirty (30) days after written notice of the intent to cancel is delivered to Prime Contractor.

(c) Insurance policies shall contain at least the following limits an coverage:

(1) COMMERCIAL GENERAL LIABILITY AND AUTOMOBILE LIABILITY:

Contractors / Subcontractors	\$1,000,000 per occurrence
Leased Operators	\$1,000,000 per occurrence

(2) WORKER'S COMPENSATION:

All workers' compensation coverage must confirm to applicable state statutes. The requirement for this coverage is compulsory and not elective.

(3) EMPLOYER'S LIABILITY:

Each Accident	\$500,000
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Current Certificates of Insurance must be on file for before Subcontractor commences performing Services.

Certificates of insurance and additional insured in favor of D. J. Conley Associates Inc. shall be mailed to:

D. J. CONLEY ASSOCIATES, INC.
2694 ELLIOTT
TROY, MI 48083-4633

17. COMPENSATION AND PAYMENTS:

(a) As soon as practicable after completion of all Services hereunder, final inspection and test shall be made by Prime Contractor and the Other Contracting Parties. When such inspection and test prove satisfactory, the Services shall be accepted; provided that Subcontractor shall have furnished Prime Contractor with a release of all claims against Prime Contractor and the Other Contracting Parties arising under or by virtue of this Agreement.

(b) Unless other payment terms are agreed upon in the Project Description, Prime Contractor shall pay the compensation amount specified in the Project Description following Subcontractor's completion, and Prime Contractor's and/or the applicable Other Contracting Parties' acceptance, of the Services and materials provided by Subcontractor. Subcontractor agrees to accept the compensation specified in the Project Description as full compensation for doing all Services and furnishing all materials contemplated by this Agreement and/or the Project Documents and for all loss or damage arising out of the nature of the Services or from the action of the elements or from any unforeseen or unknown difficulties or obstructions which may arise or be encountered in the prosecution of the Services until its acceptance; and for all risks of every description connected with the Services.

(c) Payments otherwise due this Agreement or any other agreement between Prime Contractor and Subcontractor, whether for the Project or not, may be withheld by Prime Contractor on account of defective work not remedied, claims filed, or reasonable evidence indicating probability on filing of claims, failure of Subcontractor to make payments properly to its Personnel or for material or labor, or a reasonable doubt that the Agreement or any other agreement between Prime Contractor and Subcontractor can be completed for the balance

then unpaid. If the foregoing causes are removed, the withheld payment shall be promptly made. If the said causes are not removed on written notice, Prime Contractor may rectify the same at Subcontractor's expense. Should any valid indebtedness arise after final payment is made, the Subcontractor shall reimburse the Prime Contractor for any amount that it may pay in discharging any lien thereof on any claims affecting title to the Services or the applicable customer's property.

18. **UNEMPLOYMENT INSURANCE AND TAXES:** Subcontractor shall accept full and exclusive liability for the payment of any and all taxes and contributions for unemployment insurance, old age retirement benefits and file pensions and annuities which may now or hereafter be imposed by the United States or any state, whether measured by the wages, salaries or remuneration paid to Personnel employed by Subcontractor or otherwise, for the Services required to be performed hereunder, Subcontractor shall comply with all Federal and State Laws on such subjects, and all rules and regulations promulgated hereunder and shall maintain suitable forms, books and records and save Prime Contractor harmless from the payment of and all such taxes and contributions, or penalties. Subcontractor shall likewise pay any and all taxes, excises, assessments of other charges levied by any governmental authority on or because of the work done hereunder, or any equipment, supplies or material used in the performance thereof.

19. **TAKING OVER PERFORMANCE – TERMINATION OF AGREEMENT:**

(a) Upon written notice to Subcontractor, Prime Contractor may immediately terminate all or any part of the Agreement, without any financial or other liability of Prime Contractor to Subcontractor, (i) if Subcontractor (1) repudiates, breaches, or threatens to breach any of the terms of this Agreement, (2) fails to deliver or threatens not to deliver Services or materials in accordance with this Agreement; (3) fails to provide Prime Contractor with adequate and reasonable assurance of Subcontractor's ability to perform timely any of Subcontractor's obligations under this Agreement, including, without limitation, delivery of materials or performance of Services; or (4) becomes insolvent; or (ii) if Prime Contractor terminates for breach any other agreements between Prime Contractor and Subcontractor. In the event of such termination, Prime Contractor may, either itself or by engaging another subcontractor, perform any Services and provide any materials required by this Agreement. If Prime Contractor incurs costs in excess of the compensation that would have been due to Subcontractor in performing the Services and providing the materials required under this Agreement, Subcontractor shall be responsible for, and shall promptly pay such excess amounts to Prime Contractor. For clarification, Failure of Prime Contractor to exercise any of the rights given it under this Section shall not excuse Subcontractor from compliance with the provisions of this Agreement, or prejudice right of Prime Contractor to recover damages from Subcontractor.

In the event of a strike, or labor dispute that affects the Subcontractor's ability to perform the Services, including, but not limited to those arising out of the collective bargaining affecting either Subcontractor or other construction employers in the trade area, Prime Contractor may, at its option and at its sole discretion, terminate this Agreement or require Subcontractor to cease performance of the Services. Upon such termination, Prime Contractor may at its option and its sole discretion complete the uncompleted portion of the Services as described in the foregoing paragraph.

(b) Should any other Project Document be terminated or be canceled, pursuant to the terms thereof, or should conditions arise which, in the opinion of Prime Contractor, make it advisable to cease Services under this Agreement, Prime Contractor may terminate this Agreement by written notice to Subcontractor. Such termination shall be effective in the manner specified in said notice and shall be without prejudice to any claims which any Other Contracting Parties may have against Subcontractor.

(c) On receipt of any notice of termination, Subcontractor shall, unless the notice directs otherwise, immediately discontinue the performing the Services and placing any orders for materials, facilities and supplies in connection with the performance of this Agreement, and shall, if requested, make every reasonable effort to procure cancellation of existing orders or contracts upon terms satisfactory to Prime Contractor and shall thereafter perform only such

Services as may be necessary to preserve and protect work already in progress and to protect material, plant, and equipment of the work or in transit thereto.

(d) Except to the extent set forth above, upon terminating of this Agreement, it is agreed:

(i) That the obligations of this Agreement shall continue as to Services already performed and as to bona fide obligations assumed by Subcontractor prior to date of cancellation or termination.

(ii) That the Subcontractor shall be entitled only to pro rata compensation for the portion of the Services already performed, including material for which it had made firm contracts, in which case Prime Contractor shall be entitled to such contracted materials.

20. **LAWS AND REGULATIONS:** Subcontractor, its employees and representative, shall at all time comply with any applicable laws, ordinances, statues, codes, rules and regulations, whether Federal, State, County and/or Municipal, including, without limitation, those relating to wages, hours and working conditions. Subcontractor shall procure and pay for all permits and inspections required by any governmental authority for any part of the Services and shall furnish any bonds, security or deposits required to permit performance of the Services.
21. **NOTICES:** Any notices hereunder may be served personally on the superintendent of either party at the Project job site or may be served by registered mail direct to the address shown on the face hereof.
22. **ARBITRATION:** In any dispute between parties as to the interpretation of this Agreement or the performance of the same, either party may demand that the dispute be submitted to arbitration. The demand shall be in writing, shall be served on the other party and shall specify the arbitrator chosen by the party making the demand. Within ten (10) business days after receipt of the demand, then each party shall appoint an arbitrator, by written notice served on the party making the demand. The two arbitrators so chosen shall select a third arbitrator. The decision of any two arbitrators shall be binding and conclusive, shall be in writing and shall be a condition precedent to any right of legal action. In no case shall submission of a matter to arbitration be a cause for delay or discontinuance of any part of the work. Each party shall bear the expense of its own arbitrator and the expense of the third arbitrator and other costs of the arbitration shall be divided equally between the parties.
23. **APPLICABLE LAW; DISPUTE RESOLUTION.** This Agreement shall be governed exclusively by the laws of the State of Michigan without any regard to any applicable conflict of laws provisions. The United Nations Convention on the International Sale of Products is expressly excluded. The parties agree that any litigation arising between the parties in relation to the Agreement shall be initiated and maintained in the Circuit Court of the County of Oakland, Michigan, or the U.S. District Court for the Eastern District of Michigan, Southern Division, and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts.
24. **NON-ASSIGNMENT:** Subcontractor shall not subcontract or assign this Agreement and/or the Services, or any part thereof, without first obtaining the written consent of Prime Contractor.
25. **ENTIRE AGREEMENT:** This Agreement, which, for clarification, includes the Project Description and the Project Documents as applicable hereunder, embodies the entire agreement between Prime Contractor and Subcontractor. Subcontractor represents that in entering into this Agreement, it does not rely on any previous oral or implied representation, inducement, or understanding of any kind or nature.
26. **DRUG POLICY:** Substance abuse is deemed by the Prime Contractor to be unacceptable in a work place. Prime Contractor may require that the Subcontractor sign a Statement of Compliance with Prime Contractor's Contraband Interdiction Policy before commencing work for his property, or of any other such policy as required by or shown in the Project Documents.
27. **WAIVER OF JURY TRIAL:** THE PARTIES ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, BUT ONE THAT MAY BE WAIVED. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH

COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO THIS AGREEMENT.

28. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision will be enforced to the fullest extent that it is valid and enforceable under applicable law. All other provisions of this Agreement shall remain in full force and effect.

This completes the terms and conditions agreed to by the Prime Contractor and Subcontractor.