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SAMPLE SUBCONTRACT PROVISIONS TO NOTE

Schedule	Delays (No-Dame-For-Delay)	Change Orders	Claims
<p>Time is of the essence as to the prosecution of the Subcontractor's Work. If requested, the Subcontractor shall provide the Contractor with scheduling information and Subcontractor's proposed schedule for the Subcontract Work. The Contractor may prepare the Schedule of Work for the Project and Contractor shall have the right to modify the construction schedule, to suspend, delay or accelerate, in whole or in part, the commencement or execution of Subcontractor's Work, or vary the sequence thereof, without compensation to the Subcontractor. In the event such a delay or suspension extends the overall time of performance, the time for the Subcontractor to complete its work shall be extended. The Subcontractor shall commence the Subcontractor's Work promptly upon notice to proceed. The Subcontractor shall prosecute the Subcontractor's Work in a prompt and diligent manner as directed by the Contractor and in accordance with the Schedule of Work without hindering the Work of the Contractor or any other subcontractor. The Subcontractor shall proceed with the Subcontractor's Work, making all necessary deliveries, so as to make timely progress and complete the same in accordance with the Project's Schedule of Work and as directed by the Contractor. Whenever, in the Contractor's opinion, the Subcontractor's Work falls behind, the Subcontractor shall increase its labor force and/or provide overtime, Saturday, Sunday and/or holiday work, and shall have each of its subcontractors do likewise, all at no additional cost to or compensation from the Contractor.</p>	<p>Should the Subcontractor be delayed by the act or omission of the Contractor or by any other contractor or subcontractor on the Project, or by any cause beyond the Subcontractor's control and not due to any fault, act or omission on its part, then the time for completion of the work shall be extended for a period equivalent to the time lost by reason of any of the aforesaid causes, as determined by the Contractor, and Subcontractor agrees to make no claim for damages for delay in the performance of this Subcontract occasioned by any act or omission to act of the Contractor or any of its representatives.</p>	<p>The Contractor and Subcontractor agree that the Contractor may add to or deduct from the amount of Subcontract Work covered by this Subcontract Agreement, and any changes so made to the Subcontract Work, or any other parts of this Subcontract Agreement, shall be by a written Change Order. A Change Order is a written instrument prepared by the Contractor and signed by the Subcontractor stating their agreement upon the change in the Subcontract Work and the value of such change. In addition, the Subcontractor agrees to proceed with the Subcontract Work, as changed, when so directed in writing by a Construction Change Directive issued by the Contractor so as not to delay the progress of the Subcontract Work and pending any determination of the value. If the Contractor requests a proposal of cost for a change, the Subcontractor shall promptly comply with such request. Contractor shall not make changes in Subcontract Work, whether additions, deletions or other revisions in any manner except by written Change Order or Construction Change Directive. All changes in the Subcontract Work made by Change Order or Construction Change Directive shall be deemed a part of the Subcontract Work and shall be performed and furnished in strict accordance with all terms and conditions of this Subcontract Agreement and the Subcontract Documents, including the current Schedule of Work.</p>	<p>If the Subcontractor believes that any order, directive or condition, other than as provided for in Paragraph 5.7 ["Unknown Conditions"], entitles him to extra compensation or an extension of time, he shall give the Contractor written notice of his claim not later than three (3) days after the occurrence of the event giving rise to the claim and shall, as soon as practicable, furnish sufficient facts in support of his position as may be necessary for a decision. Any claim by the Subcontractor for extra compensation or an extension of time not so made shall be waived, and the Subcontractor shall not be entitled to any extra compensation or extension of time as a result thereof. The Contractor shall not be obligated or liable to the Subcontractor for, and the Subcontractor hereby expressly waives any claims against the Contractor on account of, any damages, costs or expenses of any nature which the Subcontractor or its subcontractors may incur as a result of any delays, interferences, suspensions, changes in sequence or the like, arising from or out of any act or omission of, or attributable to, the Contractor, it being understood and agreed that the Subcontractor's sole and exclusive remedy in such event shall be an extension of time, but only in accordance with the provisions of this Subcontract Agreement.</p>
		<p>Subcontractor shall not be entitled to receive extra compensation for extra work or materials or changes of any kind regardless of whether the same was ordered by the Contractor or any of his representatives unless a Change Order or Construction Change Directive has been issued in writing by the Contractor. If extra work was ordered by the Contractor and the Subcontractor performed same but did not receive a written Change Order or Construction Change Directive, the Subcontractor shall be deemed to have waived any claim for extra compensation therefore, regardless of any written or verbal protests or claims by the Subcontractor. The Subcontractor shall be responsible for any costs incurred by the Contractor for any changes of any kind made by the Subcontractor that increase the cost of the Work for either the Contractor or other subcontractors when the Subcontractor proceeds with such changes without a written Change Order or Construction Change Directive.</p>	
<p>Subcontractor agrees to ... complete the work in such sequence and order and according to such schedules as Contractor shall establish from time to time ... time being of the essence.... If Contractor determines that the Subcontractor is behind schedule or will not be able to maintain the schedule, Subcontractor ... shall work overtime, shift work, or work in an altered sequence, if deemed necessary, in the judgment of the Contractor to maintain the progress of the work. Any such ... altered sequence work required to maintain progress or to complete the work on a timely basis shall be at Subcontractor's expense and shall not entitle Subcontractor to ... additional compensation.</p>	<p>To the fullest extent permitted by applicable law, Contractor shall have the right at any time to delay or suspend the work or any part thereof without incurring liability therefore. An extension of time shall be the sole and exclusive remedy of Subcontractor for any delays or suspensions suffered by Subcontractor ... and Subcontractor shall have no right to seek or recover from Contractor any damages or losses, whether direct or indirect, arising from or related to any delay or acceleration to overcome delay, and/or any impact or effect of such delays on the Work.</p>		<p>Notice in writing shall be given to the Contractor no later than seven (7) days following the occurrence on which such claim is based.... Any claim not presented within such time period shall be deemed waived by Subcontractor. The notice must describe the dispute, controversy or claim in detail so as to allow Contractor to review its merits ... [and] provide detailed information to substantiate such claim including supporting documentation and calculations.</p>

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<p>In the interest of the overall project, Contractor reserves the right to alter the sequencing of activities in order to accommodate project conditions and/or Owner requirements. It is understood that the Subcontractor shall be obligated to complete its activities timely ... regardless of the actual start date.</p>		<p>Contractor may submit disputed change orders to Owner for payment, and Subcontractor is then bound both by the determination of Owner and to accept such payment, if any, as specified by Owner as full and final payment for all claims (or disputed change orders) submitted. If Owner determines the work is not an extra, or awards no payment for such, Subcontractor must accept said determination and payment as payment in full. Contractor shall be under no obligation to pay Subcontractor for any work done on this Project, until and unless Contractor has been paid therefor by Owner and that Subcontractor expressly accepts the risk that it will not be paid for work performed by it in the event that Contractor, for whatever reason, is not paid by Owner for such Work.</p>	
<p>There is no guarantee of continuous work. Subcontractor shall work in all areas as they become available and as directed by Contractor. Subcontractor shall include the inefficiencies, supervision and manpower necessary to run separate and independent crews as necessary.</p>	<p>The contractor shall not be entitled to any compensation whatsoever for any delay, interference, hindrance, acceleration, or inefficiency with its Work and its sole and exclusive remedy for any delay, interference, acceleration, or inefficiency with its Work shall be an extension of time.</p>		<p>If Subcontractor's Work is delayed, accelerated, compressed, re-sequenced or if Subcontractor is adversely impacted in any way in the prosecution of the Work due to the schedule, or the acts of Owner and/or its agents, other independent contractors of Owner, Contractor, or Contractor's other subcontractors, and Subcontractor suffers delay, acceleration, compression, loss of efficiency, extended overhead, or any other type of damages, losses or impacts therefrom, or if Subcontractor has any other type of claim for additional compensation to be asserted against Contractor or any of such other entities, Subcontractor agrees to provide written notice within two (2) business days of the event or occurrence giving rise to the impact to Subcontractor's Work, or such claims shall be barred. Time shall be of the essence.</p>
		<p>If Contractor and Subcontractor do not agree as to the adjustment or time for performance associated with any Change, Contractor may issue Subcontractor a Construction Change Director for Subcontractor to proceed with the Change. Subcontractor shall be required to promptly perform the Change. Subcontractor shall be required to keep a detailed, itemized accounting to support any increased costs associated with the Change, as well as documentation supporting any time extension.. Such documentation shall include Subcontractor's job cost records, payroll records, work estimates and take-offs, work schedules, time sheets, supplier invoices, and other documentation supporting Subcontractor's increased costs associated with the Change. Contractor shall then determine the appropriate adjustment for the Change which decision shall be binding on Subcontractor unless Subcontractor notifies Contractor in writing that it disputes the Contractor's determination within two days of receiving the Contractor's determination; provided, however, that if Contractor submits the Change with Subcontractor's increased costs to Owner and Owner denies the Change or determines a differing amount for the Change, this determination shall be binding on Subcontractor.</p>	<p>Failure to provide timely written notice to Contractor of any adverse impact to Subcontractor's work will preclude recovery of damages incurred as a result of any adverse impact to Subcontractor's Work.</p>

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<p>The scheduling of all construction operations at the Project, including the Schedule, shall be at the option of Contractor. The Schedule may only be modified by Contractor at its sole discretion, and Subcontractor agrees to comply with such modification</p>	<p>Subcontractor agrees not to seek compensation or damages from Contractor for delay to or interference with its work by any other subcontractor or material supplier on the Project. Subcontractor accepts any and all risks of increase in the price of labor and materials and agrees not to claim any such price increases against Contractor. Finally, Subcontractor agrees that Contractor is not liable for any damages or costs due to delays, accelerations, impact, nonperformance, interferences with performance, suspension or changes in the performance or sequence of Subcontractor's work. Subcontractor understands that Contractor shall have the right, at any time, to delay, accelerate, or suspend the commencement or execution of the whole or any part of the Work, or vary the sequence or performance thereof, without compensation to Subcontractor other than a time extension for a period equal to such delay or suspension.</p>		
<p>Should Contractor judge that Subcontractor is delaying the progress of the Work or not complying with the Schedule, the Subcontractor must employ additional workmen, equipment and supplies, as required, so as to bring the Work into conformity with the Schedule or as required by Contractor. Contractor has the right to accelerate Subcontractor's work, at Subcontractor's sole expense, if Contractor determines that such acceleration is necessary to comply with the Schedule given delays caused by Subcontractor or simply Subcontractor's failure to be in conformity with the Schedule.</p>		<p>If Contractor and Subcontractor do not agree on the entitlement to the Change or the amount of the Change, Subcontractor, provided it receives a written directive from Contractor before proceeding with the Change, shall promptly proceed with the Work involved for the Change. The cost of such Work shall then be determined on the basis of reasonable expenditures and savings in performing the Work attributable to the change, including a reasonable allowance for overhead and profit. In such case, the Subcontractor shall separately track all costs and credits associated with the Change and present an itemized accounting together with supporting back-up for inclusion in a Change Order. The cost of the Change shall be limited to the cost of materials including sales tax, the cost of delivery, cost of labor, rental value of equipment, insurance, and bond premium.</p>	<p>Subcontractor shall make all claims for extras, extensions of time, and for any damages for delay, impact or otherwise, in sufficient time for Contractor to make claims to the Owner in accordance with the Contract Documents. Subcontractor's failure to do so shall prejudice Contractor and shall be deemed a waiver of Subcontractor's claim. In the absence of such a provision in the Contract Documents, the claim shall be made to Contractor within 7 days of Subcontractor's first occurrence which forms the basis of such claim.</p>
	<p>Subcontractor shall not be entitled to nor claim any cost reimbursement, compensation or damages for any delay, obstruction, hindrance or interference to the Work except to the extent that Contractor has actually recovered corresponding cost reimbursement, compensation or damages from the Owner under the Contract Documents for such delay, obstruction, hindrance or interference, and then only to the extent of the amount, if any, which Contractor on behalf of Subcontractor, actually received from the Owner on account of such delay, obstruction, hindrance or interference. Notwithstanding any term or provision herein to the contrary, Subcontractor expressly waives and releases all claims or rights to recover lost profit (except for profit on work actually performed), recovery of overhead (including home office overhead), and any other indirect damages, costs or expenses in any way arising out of or related to the Subcontract, including the breach thereof by Contractor, delays, charges, acceleration, loss of efficiency or productivity disruptions and interferences with the performance of the work.</p>		
<p>The Works of this Contract shall be commenced and completed pursuant to the schedule of construction developed by Contractor as may be amended from time to time. The Subcontractor recognizes that revisions in the schedule are inherent in the nature of construction. The Subcontractor agrees that the Contractor cannot guarantee the Subcontractor can start Work on any particular date or continue without interruption once the Work starts.</p>		<p>Changes will be binding on Contractor only if such changes are in writing and signed as agreed to by Contractor. Contractor may, by written change order, make any change including additions or deletions in quantities or changes to the specifications or drawings. If any change affects the amount due Subcontractor or the time of performance hereunder, as proven by Subcontractor, Contractor shall make an equitable adjustment to Subcontractor for the amount Contractor receives from Owner for the change. Subcontractor must assert any claim for monetary adjustment as a result of said changes in writing within 7 days from its notification of the event causing the change.</p>	

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	Contractor shall not be held liable to Subcontractor, should an early or later project completion date be required due to project conditions, the neglect of the Owner (or Owner's consultants and design professionals), fire, riots and strikes, acts of God, other subcontractors, or other causes beyond Contractor's control, except and only to the extent Owner pays Contractor for such delay or impact and Subcontractor notifies Contractor within 4 days from its first notification of the event causing the delay or impact.		
Subcontractor's scope of work includes any out of sequence work ordered by Contractor. Subcontractor recognizes that certain portions of its work may be required to be worked out of sequence or in a manner that Subcontractor has not planned. The cost of all such out of sequence work has been considered by Subcontractor and factored into the subcontract amount.			

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