



Subcontractor Agreement (MA)

IN CONSIDERATION OF the covenants and conditions hereafter expressed this Agreement is made This ___ day of ___, 20___, between:

The Contractor: C.J. SHAUGHNESSY CRANE SERVICE, INC., with offices at 520 Bodwell Street Ext. • Avon, MA, 02322, phone 781-315-5321, its parent, subsidiaries, affiliates, partners, and joint ventures, if any and the officers, employees and representatives of these other persons (hereinafter "Contractor")

And the Subcontractor: xxx (hereinafter "Subcontractor")

For the following Project: xxx (hereinafter "Project")

By execution of this Agreement and by the commencement of the Work (defined below) or delivery of goods and services, whichever occurs first, the Subcontractor agrees to be bound by the terms and conditions of this Agreement. In addition, Subcontractor agrees it will be bound by the terms and conditions of all upper-tier contracts or owner contracts that Contractor is bound and the obligations of Contractor to an upper-tier contractor or owner thereunder are incorporated herein by reference to this Agreement and, for purposes of determining further obligations of Subcontractor hereunder (the "Contract Documents").

1. STATEMENT OF WORK AND SUBCONTRACTOR'S WORK.

The Subcontractor shall furnish all of the materials, tools, supplies, labor and equipment necessary to perform all work in a professional and workmanlike manner and represents and warrants that it will use experienced and competent personnel having expertise suitable to their assignments, that shall conform to or exceed the specifications set forth Contract Documents, as well as the standards generally observed in the industry for similar services.

(A) Work:

Blank lines for describing the work to be performed.

(B) The Subcontractor is to perform all of the Work and/or supply goods per the plans and specifications in the Contract Documents; that are issued by Contractor or an upper-tier contractor or owner to Contractor related for each work assignment to the satisfaction of Contractor and Owner, in Contractor's or Owners absolute discretion.

2. START AND NOTICE: The Subcontractor shall begin the Subcontractor's Work within three (3) days after being notified in writing by Contractor. The Subcontractor shall employ only persons of competence, experience and skill to complete the project.

3. DEFENSE, INDEMNIFICATION AND HOLD HARMLESS: IN CONSIDERATION OF AND IN EXCHANGE FOR THE USE OF CONTRACTOR'S EQUIPMENT FOR THE PURPOSES OF LIFTING AND/OR HOISTING MATERIALS OR PROPERTY, TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND CONTRACTOR, ITS EMPLOYEES AND AGENTS, FROM ALL CLAIMS FOR DEATH OR INJURY TO PERSONS, INCLUDING CONTRACTOR'S EMPLOYEES, FOR ALL LOSS, DAMAGE OR INJURY TO PROPERTY, INCLUDING THE EQUIPMENT, ARISING IN ANY MANNER OUT OF SUBCONTRACTOR'S WORK AND/OR USE OF THE EQUIPMENT AND OPERATOR.

THE COST OF ANY INVESTIGATION OR ADJUSTMENT (INCLUDING BUT NOT LIMITED TO, ATTORNEYS' FEES AND COSTS, PRIVATE INVESTIGATOR/ADJUSTER FEES AND COSTS, EXPERT FEES AND COSTS, COSTS OF STORAGE AND DOWN TIME FOR INABILITY TO USE THE EQUIPMENT, AND COSTS OF TESTING OF PROPERTY, EQUIPMENT, OR OTHER ITEMS) INITIATED BY THE CONTRACTOR, CONTRACTOR'S INSURANCE CARRIERS OR CONTRACTOR'S THIRD PARTY ADJUSTERS INTO ANY ACCIDENT OF ANY KIND, WHEN SUCH ACCIDENT, OR OCCURRENCE HAPPENS, INVOLVING DIRECTLY OR INDIRECTLY THE LEASED EQUIPMENT, WHETHER OR NOT SUCH ACCIDENT INVOLVES PERSONAL INJURY, DEATH OR DAMAGE TO THE LEASED EQUIPMENT OR OTHER PROPERTY OR ALL OF THESE.

4. INSURANCE: The Subcontractor at its expense agrees to carry, maintain and provide the following insurance coverages prior to the Equipment's or Subcontractor arrival on the job site: a) worker's compensation and employer's liability insurance applicable to Subcontractor's employees, with limits of at least the statutory minimum or \$1,000,000, whichever is greater; b) primary non-contributory commercial general liability insurance on an occurrence basis, including bodily injury and property damage coverages with minimum limits of \$1,000,000 per occurrence and \$2,000,000, in the aggregate; c) excess/umbrella non-contributory insurance in the amount of at least \$5,000,000 and Subcontractor's primary and excess/umbrella policies must be endorsed so that they are primary and non-contributory to all of Contractor's insurance policies; d) inland marine/all-risk physical damage insurance, on a primary non-contributory basis, to cover the full insurable value of the equipment, including any boom or jib, for its loss or damage from any and all causes of loss including, but not limited to, overloading, misuse, fire, theft, flood, explosion, overturn, accident, and acts of God occurring during the rental term; e) Contractor and anyone else who Contractor is required to name as an additional insured, are to be included as additional insureds on all liability insurance policies, including excess/umbrella policies on ISO endorsement forms CG 20 10 10 01, CG 20 37 10 01, CG 20 28 07 04, and CG 20 34 03 97. Subcontractor shall name Contractor as a Loss Payee on all insurance policies, and provide all insurance certificates and/or insurance policies to Contractor when requested; f) all of Contractor's policies and the policies of anyone Contractor is required to insure, are excess over all of Subcontractor's policies g) all Subcontractor's policies shall be endorsed to require the insurer to give at least thirty (30) days advance notice to all insured's, including additional insured's, prior to cancellation or non-renewal; h) all Subcontractor's policies must remove any exclusion for explosion, collapse and underground operations (XCU); i) all Subcontractor's policies must remove the "employer's liability exclusion" for all additional insureds; j) riggers liability insurance with minimum limits of \$1,000,000 per occurrence and \$2,000,000, in the aggregate and k) all Subcontractor's policies must include coverage for blanket contractual liability for the obligations assumed here-under and also for the liabilities assumed in the Indemnity section above. Subcontractor's agreements to indemnify and hold Contractor harmless from any liability, damage and loss are in addition to, and not an alternative thereto. To the extent that the Subcontractor may perform under this agreement without obtaining the above coverages, such an occurrence shall not operate, in any way, as a waiver of the Contractor's right to maintain any breach of contract action against Subcontractor. Subcontractor hereby agrees to waive any and all rights of subrogation and any and all lien rights which may accrue to it or its insurers. Subcontractor understands that this waiver shall bind its insurers of all levels and agree to put these insurers on notice of this waiver and to have any necessary endorsements added to the insurance policies applicable to this agreement. Notwithstanding anything to the contrary, the insurance provisions in this Agreement, including but not limited to the additional insured requirements, shall be read as broadly as permitted by applicable law.

5. PAYMENT TERMS: Subject to the terms of this agreement and the Contract Documents the Contractor agrees to pay the Subcontractor the total sum of _____ dollars for the subcontract's work.

TERMS: Net 30 Days

(B) Final payment, within thirty (30) Days after the final retention payment is received by Contractor provided the Subcontractor has executed and delivered to Contractor fully executed mechanic's lien and claim waivers of Subcontractor and its subcontractors and materialmen for work or material

(A) and other evidence satisfactory to Contractor that the Subcontractor's obligations to its sub-subcontractors, vendors and suppliers have been fully discharged and that the project and work are free from all liens or other claims chargeable to the Subcontractor as a result of this Agreement.

(B)

(C) **6. COMPLIANCE WITH LAWS:** The Subcontractor shall comply with all laws, ordinances, codes, rules, regulations, standards (local and national) and orders of any government or public authority bearing on the performance of the Work or supplying goods and services including, but not limited to, obtaining, and paying for the necessary permits to perform the Work. In the event Subcontractor provides any equipment and/or personnel, Subcontractor shall bear all risk and be responsible for any damage caused by failed equipment or personnel supplied by Subcontractor, including damage to any of Contractor or Subcontractor's equipment. To protect persons and property, Subcontractor shall, as reasonably appropriate, comply with all material safety requirements of governmental and quasi-governmental authorities having jurisdiction over the Work.

7. OPERATION OF EQUIPMENT: It is expressly agreed by and between the parties hereto that the Equipment and all persons operating the Equipment are under the supervision and control of Subcontractor under this Subcontract and all Contract Documents. In the absence of Subcontractor's presence at the jobsite, the parties expressly agree that all persons operating the Equipment are under the direct supervision and control of anyone hired by Subcontractor. In any case it shall be the duty of Subcontractor to give specific instructions and directions to all persons operating the leased or owned Equipment. **Subcontractor agrees to provide or otherwise select competent and experienced personnel to direct the operation of the equipment, in accordance with OSHA 29 CFR 1926.1428 signal person qualifications and Subcontractor further agree that the standard of care and responsibilities will be in accordance with all American National Standards Institute (ANSI) and that ASME B30.5-2018 (and as amended) shall be used when operating the equipment, specifically Chapter 5-3 Operation, as well as the OSHA 29 CFR Subpart CC Cranes and Derricks in Construction sections 1926.1400 – 1926.1442.** The Subcontractor acknowledges and agrees that it is the responsibility of the Subcontractor to independently determine the weight of every load to be lifted to prevent compromising all or any portion of the Equipment. Any load measuring device used by the Crane Operator shall be used as an operator-aid only.

(D) **8. NOT BORROWED SERVANTS:** The crane operator or any Subcontractor employee is not a leased employee to or of Contractor, nor is the crane operator a borrowed servant by Contractor. The Subcontractor shall be solely and completely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the Agreement or the Contract Documents.

(E) **9. Applicable Laws:** If any provisions hereof conflict with any statute or rule of law of any jurisdiction wherein it may be sought to be enforced, then such provisions shall be deemed null and void to the extent that they may conflict therewith, but without invalidating the remaining provisions thereof. This agreement shall be binding upon the heirs, administrators, legal representatives, and successors of the Subcontractor.

10. FORCE MAJEURE; LIMITATION OF LIABILITY: Contractor shall not be responsible or liable for any delays or its failure to perform the terms and conditions of this Agreement when such delay or failure is caused by events or circumstances beyond the control of Contractor, including without limitation, acts of God, fire, catastrophe, weather conditions, strikes, lockouts, labor shortages, unavailability of parts, war, riots, civil commotion, confiscation, or governmental action or restriction, including frost law restrictions. If Subcontractor is responsible for delays, in time or sequence of the project Subcontractor shall pay Contractor for all reasonable costs and damages suffered by Contractor as a result of such delays.

11. NON-WAIVER. Any delay or failure by either party to insist upon strict performance of any obligation hereunder or exercise any right or remedy provided hereunder shall not be a waiver of its right to demand strict compliance in the future, irrespective of the length of time for which such delay or failure continues. No term or condition of a Statement of Work or this Agreement shall be waived, and no breach excused unless such waiver or excuse of a breach has been put in writing and signed by the party claimed to have waived or excused. No consent or waiver to or of any right, remedy or breach shall constitute a consent or waiver to or of any other right, remedy or breach in the performance of the same or any other obligation hereunder.

12. NOTICE: All notices to be sent to the parties shall be sent to the parties' address shown for each above.

13. AUTHORIZED SIGNATURE: In the event this agreement has been executed by an individual on behalf of a corporation or other business entity, the person whose signature is affixed hereto and the company for which the individual has signed this agreement represent to Contractor that the individual signing has full authority to execute this agreement on behalf of said Subcontractor, corporation, or other business entity.

(F) **14. HEADINGS:** Headings under this Agreement are for informational purposes only and are not intended to limit or define any terms.

(G) **15. COUNTERPARTS.** This Agreement may be executed in multiple counterparts each of which will be deemed an original and all of which together shall constitute an agreement.

Terms and Conditions of this Subcontract Agreement have been agreed to as of the Date above:

xxx

(Subcontractor's Authorized Signature) Date: _____

(Printed Name of Signatory)

C.J. SHAUGHNESSY CRANE SERVICE, INC

(Authorized Signature) Date: _____

(Printed Name of Signatory)