

SUBCONTRACTOR AGREEMENT

IN MOTION BUILDERS, INC.

(Herein called the Contractor)

923 NW 31st Ave.

Pompano Beach, FL 33069

(954) 698-0900

(954) 698-1040 fax

www.inmotionbuilders.com

Project:

Project Name
Project Address
City, State & Zip

Owner:

Owner Name
Owner Address
City, State & Zip

Architect:

Architects Information

Subcontractor:

Subcontractor Name
Cost Code # & Contract Amount

A. Agreement

This Subcontract Agreement is entered into this **Date** between **In Motion Builders, Inc., General Contractors** (herein termed Contractor) and **Subcontractor Name, Address, City, State & Zip Phone # & Fax #** (herein termed Subcontractor).

Contract Documents: See Exhibit "B" for list contract documents (drawings).

By the execution of this Subcontract Agreement, the Subcontractor represents that he has read, reviewed, analyzed and become familiar with all of the Contract Documents, of the Prime Contract and the Subcontractor specifically agrees to be bound, responsible, obligated and liable by all provisions of the prime Contract in the same manner the Contractor is bound, responsible, obligated and liable to the Owner under the Prime Contract.

Subcontractor acknowledges and warrants that it has closely examined all the contract documents, that they are suitable and sufficient to enable Subcontractor to complete its work in a timely manner for the Contract Amount and that they include all work, whether or not shown or described, which reasonably may be inferred to be required or useful for the completion of the work in full compliance with all applicable codes, laws ordinances, and regulations.

B. Subcontract Work

Subcontractor warrants that it is an independent Contractor properly licensed under applicable State law, has no contractual relationship with the owner, and an employing unit subject, as an employer, to all applicable income tax withholding, unemployment compensation laws, workers, compensation laws and other business and employee benefit laws and regulations.

The Subcontractor price includes and Subcontractor shall pay all license fees, assessments and permit charges based upon or measured by the work to be done hereunder, labor performed, materials furnished, and / or services rendered, including but not limited to, business license taxes, occupation, sales tax, gross receipts and like taxes, arising out of the ownership, acquisition, furnishing, installation, inspections or use of materials, equipment, or other personal furnishing labor or services in respect to the subcontract work.

This subcontract Agreement is the entire and integrated agreements between the parties. All prior negotiations, proposals, representations or agreements, whether written or oral, not expressly incorporated herein, are superseded. All modifications of this Subcontract must be in writing and signed by the parties hereto to be valid.

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This Subcontract shall be binding on the successors, and legal representatives of Subcontractor and In Motion Builders, Inc. Subcontractor shall not assign, sublet or transfer in the Subcontract without the written consent of In Motion Builders, Inc., nor shall Subcontractor assign any monies due or to become due hereunder without the previous written consent of In Motion Builders, Inc. In the event In Motion Builders, Inc. consents to an assignment of all or part of this Subcontract, then this Subcontract shall be binding on the assignee. The partial or complete invalidity of any one or more provisions of this Subcontract shall not affect the validity or continuing force and effect of any other provision. The failure of In Motion Builders, Inc. to insist, in any one or more instances, upon the performance of any of the terms and conditions of this Subcontract, or to exercise any right to herein, shall not be construed as a waiver or relinquishment of such terms, conditions or rights.

The law of the State of where the work was performed shall govern this Subcontract and any litigation arising under this Subcontract Agreement shall take place in the local court jurisdiction.

Any notice required shall be in writing and sent to each party at the address listed above via telefax, Unites States mail, Overnight Courier i.e. Fed Ex or UPS, or hand-delivery. Subcontractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, or handicap and further agrees not to engage in any unlawful employment practices.

C. Scope of Work: See attached Exhibit "C" for detailed scope of work for work being performed.

Provide a complete Package per plans / specifications including but not limited to:

- Furnish all labor, material, equipment, supervision, layout, shop drawings, scaffolding, hoisting, protection, unloading, jobsite distribution, freight, taxes, insurances, and cost escalation required to provide a complete and safe project.
- Subcontractor is responsible for successful and timely completion of all inspections required under this scope of work and compliance with all local codes and ordinances. Subcontractor shall have a qualified representative present to escort inspector at all times. Confirmation and documentation of inspection shall be furnished to the Contractor upon completion of each inspection.
- Specialty power requirements other than small tools shall be the responsibility of the subcontractor.
- Subcontractor hereby acknowledges full access to In Motion Builders project construction logs, including, but not limited to: RFI logs and responses, submittal logs and approvals, constructions schedules, current document log, permit drawings, complete and current specification manual and all other project documentation. It is specifically the responsibility of the Subcontractor to confirm current information pertaining to their scope of work on a daily basis.
- All mobilization fees.
- Traffic control as deemed necessary.
- Subcontractor to review finished condition of all areas to receive materials for acceptability no less than five days prior to installation. Any areas, details, intersections, etc., deemed unacceptable must be brought to the contractor's site personnel's attention in writing. Upon commencement of work, subcontractor assumes responsibility of all sites conditions.
- Shake out of all materials from point of delivery as necessary. All deliveries to be coordinated thru In Motion Builders site personnel.
- Subcontractor acknowledges receipt of final construction schedule attached.
- Any of the following infractions shall result in immediate removal of offending individual from the project:
 - Lewd, loud or obnoxious behavior.
 - Intoxication of any kind.
 - Verbal contact with any pedestrian, vehicular passenger.
- Subcontractor shall not post or erect project signage or advertisement on site without prior written consent of Contractor, Owner, and local municipality.

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- See Exhibit “C” for subcontractor specific scope of work.

D. Contract Amount

Lump Sum	\$0.00
	Tax Included

E. Additional Terms And Conditions:

The following additional terms and conditions are clearly understood by the Subcontractor and are mutually acceptable portions of the Subcontract Agreement:

1. Indemnification
To the full extent permitted by law, Subcontractor shall defend, indemnify and hold harmless the Contractor, its officers, directors and its employees from and against all liabilities, damages, and costs including, but not limited to, attorneys fees, to the extent such liabilities, damages, and cost arise out of or relate to the performance of this Subcontract, including such liabilities, damages and cost that are caused by the negligence of the subcontractor, its officers, directors and employees. The provisions of Florida Statute 725.06 are incorporated herein. There shall be a monetary limit on this indemnification obligation of \$1,000,000.00.
2. Codes
At Subcontractors expense all applicable provisions of national and/or local codes and other regulatory body requirements will be met.
3. Underground Facilities
Before any excavation begins on public land, Subcontractor must give notice, to public utilities concerning the possible location of underground facilities.
4. Utilities
No interruption of existing services shall occur without receiving forty-eight (48) hours prior written approval from the owner via the Contractor.
5. Safety
Subcontractor agrees to observe and comply with all provisions and requirements of the occupational Safety and Health Act of 1970 as amended / updated in performance of the Work, hereunder to assume all responsibilities with respect thereto, and to indemnify and hold harmless the Owner, Architect, Engineer and Contractor from all penalties, damages or other loss resulting from failure to do so.

Subcontractor shall report any injury to an employee, agent, supplier, or material-man to In Motion Builders, Inc. within twenty-four (24) hours of its occurrence and provide In Motion Builders, Inc. with a copy of its safety report.

Initiation of work on this project by a subcontractor is mutually understood to mean all existing safety provisions and procedures have been reviewed and area acceptable to the subcontractor and will be maintained by him to effect a continually safe atmosphere for his employees and all other project workmen.

Hazardous Communication Program shall be required on this project.

- a) The Subcontractor shall comply with the applicable Federal Law (OSHA 29 CFR 1910.120).
- b) The Subcontractor shall deliver to the jobsite, in duplicate, all MSDS' that apply to their work for jobsite filing.

OSHA fines or assessments charged to In Motion Builders, Inc., but attributable to Subcontractors failure to comply with established guidelines will be charged to this Subcontractor.

Basic Safety Work Rules

In Motion Builders, Inc. is committed to the safety and health of all its employees, subcontractors and subcontractor employees. In our effort to make this project hazard free and provide the safest working conditions possible, we expect all site personnel to learn and practice the following basic safe work rules. In addition to the basic safety rules listed below, Subcontractor acknowledges and agrees to abide by In Motion Builders, Inc. safety program which must be observed on this project. Subcontractor may at Contractor's discretion, be subject to a \$100.00 administrative fee to defray the additional project management expense associated with safety enforcement after receipt of one written warning.

- Approved and unaltered hard hats and sturdy work boots are required at all times in the work areas.
- Approved (Z.87.1) safety glasses/goggles/eye protection shall be worn at all times.
- Hearing protection shall be worn in all high noise areas or while performing high noise tasks.
- Approved respiratory protection shall be worn as required.
- Proper gloves are required when handling material that cuts, burns or contaminates the skin.
- Employees working on unguarded or unprotected work platforms 6 feet or more above the ground shall wear safety harnesses.
- No employees shall work on scaffolding higher than 4 feet without proper guardrails and toe boards.
- Do not climb on or work from any handrail, mid-rail, or brace. Use the ladder to get on a scaffold.
- Secure or cleat scaffold boards to prevent movement.
- Inspect all ladders for damage or defects before use. Stepladders will only be used in the fully opened position. Extension ladders are not to be separated, they must have ladder feet set on a secure surface and tied off at the top (3' above intended destination). Good housekeeping shall be practiced at all times.
- Projecting nails shall be removed from lumber.
- Clean up spills immediately and remove oily, flammable, or combustible waste/rags.
- Compressed air shall not be used for blowing dust or dirt from clothing.
- No radios, other than used for communication purposes, will be tolerated on site at any time.
- Access to safety and fire fighting equipment shall be kept clear at all times. Learn how to use an extinguisher before you need it!
- Gasoline equipment shall not be refueled while running.
- Secure all cylinders in the upright position with caps on when not in use.
- Never enter an un-shored excavation over 5 feet deep unless slopes are laid back.
- All electrical cords shall be of the three-wire type and free of cuts and/or splices.
- Wire rope chokers, slings, chain fall, and come-a-longs are to be inspected before use.
- No employee, other than the operator, shall ride on trucks, loaders, shovels, or moving equipment unless authorized.
- Immediately report all accidents and injuries to your supervisor.
- Report unsafe conditions or practices to your supervisor.
- Subcontractor shall be responsible for OSHA / City fines as result of their actions.
- All potable drinking water supplied by subcontractors for their crew.

6. Shop Drawings and Approvals

Unless otherwise noted, a total of 5 copies will be submitted for all specifications, submittals, shop drawings, samples, etc., no later than 14 calendar days after receipt of this contract. Forwarding of shop drawings and submittals by the subcontractor for review by In Motion Builders, Inc. shall constitute a warranty by the subcontractor that such shop drawings and submittals comply with the terms and conditions of the contract documents and the terms and conditions of the Agreement or

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Purchase Order. Review and acceptance of any drawing or submittal from Subcontractor by In Motion Builders, Inc. shall not constitute authorization for any deviation from the plans and specifications. No approval by In Motion Builders, Inc. or other reviewing parties shall be construed as relieving any subcontractor of the obligation and responsibility of complying with all terms and conditions of the subcontract agreement, which specifically includes all the contract documents and addenda.

7. Progress

The Subcontractors continual diligent efforts will be expended to maintain adequate and competent manpower materials and equipment to effect job progress in accordance with the current project schedules of the Contractor and commensurate with all adjacent, and / or related work. This subcontractor shall provide detailed scheduling information to In Motion Builders, Inc. on an initial and continuing basis to allow full coordination of the work and completion with the stated schedule goals. Subcontractor to provide a current updated two-week short interval schedule for superintendent's review on a weekly basis. Schedules to be submitted at the jobsite trailer by noon Friday and include current accurate information regarding daily on-site labor, procurement and delivery status of all materials.

The subcontractor recognizes changes will be made in the schedule of work and agrees to comply with such changes.

The contractor shall decide the time, order and priority in which the various portions of the work shall be performed and all other matters relative to the timely and orderly conduct of the Subcontractors work.

If it is determined by the Contractor that Subcontractor progress is not in compliance with the progress schedule, the following will be required of the Subcontractor at no additional cost to In Motion Builders, Inc.: A) additional manpower B) shift work, or C) overtime. Subcontractor will also be held responsible for any additional costs incurred by the Contractor to accommodate the additional manpower, shift work, overtime, or hiring of personnel to complete Subcontractors work if necessary.

Failure by the Subcontractor to comply with the above requirement shall be grounds for termination of this contract agreement. Additionally and whether or not the contract agreement is terminated, Subcontractor shall be responsible for any loss or damages that may result from such failure, including but not limited to liquidated damages and any other damages caused to the Owner which are assessed against the Contractor.

8. Schedule of Values

Prior to returning this agreement for execution, Subcontractor shall provide detailed and certified schedules of values with sufficient breakdown information (on AIA G703) to allow a complete analysis of the value of the work. Additionally, the subcontractor must include the names and contract amounts of any subcontractors or material suppliers performing work under this subcontractor agreement. No payments will be made until this information is submitted and approved by In Motion Builders, Inc.

9. Payment and Lien Waivers

The Contractor is to pay the Subcontractor 90% monthly draws for work completed and materials on the site, as approved by the Owner or his representative. Final payment will be made within thirty days after the building has been completed and accepted and paid for by the Owner or his representative, provided the subcontractor has fully complied with all requirements of the owner or his representative as set forth in the plans, specifications, general conditions and this agreement and provided further that the Contractor has received satisfactory proof that all bills incurred by the Subcontractor for labor and materials used in the execution of this agreement have been fully paid. Such final payment, however, shall not relieve this Subcontractor from adjustments of any

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defects in materials or workmanship. Upon receipt of final payment the subcontractor shall furnish to Contractor a final release of lien in duplicate.

Payment is to be made, subject to the condition precedent stated below, in current funds within fifteen days after Contractor receives such funds from Owner. It shall be a condition precedent to any liability of the Contractor to the Subcontractor for any payment to the Subcontractor that the Contractor is in receipt of payment from the Owner. If the Owner has not paid the Contractor for any reason whatsoever, including the Owners financial inability to pay for other reasons not related to this Subcontractor, the Subcontractor agrees that the contractor shall not be liable for payment nor be indebted to the Subcontractor. The Subcontractor assumes the credit risk of the Owner and agrees that he has relied on the Owners credit and not that of the Contractor. Subcontractor further agrees that the liability of the surety on Contractors payment bond, if any, for payment to the Subcontractor. Subcontractor acknowledges that its acceptance of these terms is a material inducement to Contractor executing this agreement.

Application for payment must be received by In Motion Builders, Inc.'s office no later than 3 PM on the 20th of each month. Faxed copies are acceptable. Application for payment must be projected thru the end of the month. No applications for payment will be accepted prior to execution of this agreement. All release of liens must be dated thru the end of the month. Application for payment must be submitted using the AIA documents G702 and G703. The application for payment shall be for one calendar month. Payment from the Owner should occur approximately on the 22nd of the following month. The Contractor will require original releases of liens from all of the Subcontractor's suppliers and subtiers indicating payment through the end of the month shown on Application for Payment before any payments will be released to the Subcontractor.

10. Joint Check

The Contractor reserves the right, in its sole discretion, to make any payment to Subcontractor hereunder through check(s) made payable to the joint order of Subcontractor and such of Subcontractor's subtiers, suppliers and others, and / or Subcontractor's other creditors having potential rights or claims against the project or any proceeds. In addition, General Contractor reserves the right, in its sole discretion, to make payment directly to Subcontractor, subtiers, suppliers and others if it deems such payment is necessary to protect itself from liens or claims and may deduct the amount of such payments from sums otherwise due Subcontractor under this contract.

11. Extra Work (See Exhibit "D")

No claims for extra work will be paid unless In Motion Builders, Inc. previously authorized such work in writing. Extra work items authorized in writing will be shown as individual line items (on AIA G703) after change order approval and work accomplishment. Pending change order requests shall be detailed and submitted as an attachment to monthly billing for review. No extra work claims will be paid unless substantiated with a fully executed change order. In any event, no payment shall be made to Subcontractor's extra work claims unless payment for such work has been received from the Owner or unless otherwise specifically agreed in writing by the General Contractor. Subcontractor waives all compensation for any work done outside the scope of its contract unless such work was done pursuant to specific written authorization of In Motion Builders, Inc. The percentage fee for overhead and profit combined, to be added to the actual cost of the change in determining the total cost to the Contractor, shall be limited to 15% of the cost of the change or as otherwise defined in the prime contract, whichever is less.

12. Stored Material

Payments of stored materials off-site shall be at the sole discretion of the Owner and conditional upon the submission by the Subcontractor of all requirements of the Owner. Payments of stored materials on-site shall be allowed to the extent allowable by the prime contract. However, the Subcontractor shall be solely responsible for loss, theft, damage, etc.

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13. Delays
Notice of any delays beyond the control of the Subcontractor that may constitute justification for time extension must be submitted in writing within three (3) days of the occurrence of such delay or they are waived. The determination of In Motion Builders, Inc. shall be final on the question of what causes of delay shall justify an extension of time for the completion of the contract. Any request for time extension must contain complete justification for the requested extension of time, including any and all back up. Contractor shall not be liable to the Subcontractor for any damages or additional compensation as any consequence of delay. The Subcontractor's sole and exclusive remedy shall be the extension of time provided for herein except to the extent that the Owner approves and pays compensation for any delay claimed by the Subcontractor.

14. Changes and Claims
This Subcontractor shall proceed diligently with performance of this Subcontract pending final resolution of any request for relief, claim, appeal or action arising under or relating to the Subcontract and comply with any decision of the Owner, Architect or In Motion Builders, Inc. In Motion Builders, Inc.'s obligation to make any payments under this provision is contingent upon Owner's approval and payment to In Motion Builders, Inc. for same.

15. Termination and Default
In the event you default in the performance of any requirements of this subcontract or of the general contract applicable to your work, or fail to provide a sufficient crew or workmen as and when required, or fail to properly prosecute your work, or fail to satisfactorily maintain the progress of your work, or abandon your work, or interfere with the performance of others working on this project, or fail to pay for labor employed for your work, or fail to pay your Subcontractors, or fail to pay to maintain satisfactory credit relationships for the purchase of supplies, materials, rental equipment, and services, or commit an act of bankruptcy or fail to pay contributions to labor welfare funds, state and Federal payroll taxes, and sales or use taxes, then such default, abandonment, interference, or failure shall constitute and be considered a breach of this subcontract. In such event, In Motion Builders Inc., at its option, may terminate your right to proceed by giving you three (3) days notice in writing, commencing upon the deposit of the same in the United States mail addressed to your last known address or sent via facsimile or any other approved carrier such as UPS or Fedex. However, that said notice should be null and void if you are able to overcome your default within the notice period to the complete satisfaction of In Motion Builders, Inc.

Upon the expiration of the notice period, In Motion Builders, Inc. can take possession of all materials, tools, appliances, and equipment on the job, and may take upon itself or may subcontract the completion of your work, provided, however, that you and your sureties remain liable to In Motion Builders, Inc., for any damages, expenses, and liquidated damages provided in the general contract suffered by In Motion Builders, Inc., resulting from your delay and default, and any excess costs or expense, including counsel fees and court costs, pertaining to said reletting or completion, without waiver of or prejudice to any other right, remedy or claim, In Motion Builders, Inc. may have in the premises. In the event that it is determined that Contractor did not properly exercise its rights under these provisions then, in that event, the Subcontractor shall be entitled to the compensation as provided in paragraph 17.

In the event of any default in the performance of any of the requirements of this subcontract, the general contract or any executory contract between Subcontractor and In Motion Builders, Inc., then In Motion Builders, Inc. may, at its sole discretion and without prejudice to any and all other remedies that it may have, withhold payment to Subcontractor until such default is cured to the complete satisfaction of In Motion Builders Inc. If Subcontractor successfully cures its default, then it shall be entitled to payment of any amount actually payable under this subcontract but withheld under this clause, less all costs including reasonable attorney fees incurred by In Motion Builders, Inc. on account of such default.

16. Dispute Resolution

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Any contractual remedial procedure, including any and all dispute resolution provision described in the prime contract is specifically incorporated herein by reference and made a part of this subcontract agreement. Subcontractor shall first pursue and fully exhaust said procedure before commencing on other action against Contractor for any claims it may have arising out of its performance of work herein. Upon Subcontractor's written request, Contractor agrees to prosecute all claims submitted by Subcontractor under the contractual remedial procedure of the prime contract on behalf of and to the extent required by the Subcontractor. Subcontractor agrees to be responsible for preparation and active prosecution of the claims to the extent permitted and shall reimburse Contractor all expenses and costs, including attorney's fees, incurred by Contractor on behalf of Subcontractor. Final determination of Subcontractor's claims in any such contract dispute resolution procedure shall be final and binding on Subcontractor.

Upon receiving the written consent of Contractor, Subcontractor may pursue any claims it may have against the Owner in the name of the Contractor if the claims arise out of Subcontractor's performance of the work herein and are not encompassed by the contractual remedial procedure in the prime contract of this subcontract agreement. Subcontractor agrees to be totally responsible for preparation and prosecution of any such claims and shall reimburse Contractor for all expenses and costs, including attorney's fees, incurred by Contractor in this regard. Final determination of Subcontractor's claims by the appropriate forum shall be final and binding on Subcontractor and Contractor shall have no liability responsibility or obligation to Subcontractor except as ay be otherwise provided in this subcontract agreement.

If the prime contract incorporated herein is one for which Contractor has provided any surety bond(s) for the benefit of Subcontractor, which Subcontractor hereby acknowledges so determining, then Subcontractor expressly agrees to stay any action or claim under this subcontract Agreement against Contractor's bond(s) pending the complete and final resolution of the prime contract's contractual remedial procedure. These terms in no way excuse or stay Subcontractors filing of any and all notices as required by stature or bond.

17. Dispute Resolution-Claims Against other Subcontractors

Any claim arising out of or relating to the performance of any other subcontractor including all claims for additional compensation, costs, expense, overhead, profit, delay damages, or extensions of time shall be presented in writing to the general contractor within seven days of the occurrence or event-giving rise to the claim. All supporting documentation establishing such claim must be delivered to the contractor within ten days following presentation of the initial claim. Failure to timely present either the claim or the supporting documentation shall constitute a waiver of the claim. In the event that a timely claim is submitted then the following dispute resolution procedures shall apply.

The Contractor shall render an Advisory Decision on the claim within fifteen days following receipt of the claim and all supporting documentation. The contractor's decision shall be issued in writing and the subcontractors involved may signify their agreement thereto by signing the contractor's decision. A subcontractor against who relief is granted in the Contractor's Advisory Decision and who agrees to said decision shall authorize Contractor to withhold monies as they become due under its subcontract and pay them to the prevailing subcontractor or shall make payment directly within ten days of signing the decision. If a subcontractor aggress to the Contractor's Advisory Decision and then fails to make payment or authorize the Contractor to do so then such subcontractor shall be liable for all cost and expense including attorney's fees incurred by any party as a result. In the event that all involved subcontractors shall fail to agree to the Contractor's Advisory Decision then the following procedures shall apply.

All claims, which remain disputed after issuance of the Contractor's Advisory Decision, shall be settled by mediation under the Construction Industry Mediation Rules of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim arising from or relating to this contract or breach thereof shall be settled by arbitration administered by the

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American Arbitration Association in accordance with its Construction Industry Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The prevailing party in any such arbitration shall be entitled to recover a reasonable attorney's fee. In order to prevail, the outcome of the arbitration must be more favorable to the subcontractor than the Contractor's Advisory Decision.

Subcontractor agrees that its exclusive remedy for damages arising out of or relating to the performance of any other subcontractor shall be the procedure provided for herein. Subcontractor shall have no claim against the contractor or its surety on account of any damages caused by any other subcontractor and hereby expressly agrees that neither the Contractor nor its surety, if any, shall have any liability, obligation or responsibility except as set forth in this provision. Subcontractor hereby agrees to defend, indemnify and hold harmless the contractor and its surety from and against any loss, costs, expense, or damage caused by its failure to adhere to these Dispute Resolution Procedures or to accept the results thereof as final and binding. It is expressly agreed that work under this subcontract shall continue uninterrupted during the pendency of these Dispute Resolution procedures.

This provision is intended to primarily and directly benefit all subcontractors on the project who shall therefore have the right as third party beneficiaries to enforce the terms of this agreement against any subcontractor who has caused damages to them.

Subcontractor expressly agrees to stay any action or claim against any payment bond which may have been furnished by the contractor on this project pending complete and final resolution of the Dispute Resolution Procedure provided for herein except that this provision shall not excuse or stay Subcontractor's filing of a notice that may be required by statute or the terms of the bond.

18. Termination for Convenience

The Contractor may terminate this Subcontract in whole from time to time in part at any time for any reason. The Contractor shall terminate the subcontract under this provision by delivering to the Subcontractor a notice of termination specifying the extent of termination and the effective date. Upon receipt of such notice, the Subcontractor shall stop work as specified in the notice. In the event the Contractor exercises its right to terminate the subcontract pursuant to these provisions, the Subcontractor shall be entitled to compensation as follows:

1. In such amount as Subcontract and Contractor may agree, or
2. In the absence of an agreement, the Subcontractor shall recover the un-reimbursed costs reasonably and necessarily incurred in the performance of the subcontract work up to the date of termination and such other costs as may have been reasonably incurred in reliance on the subcontract, including any cost incurred in complying with the termination notice, provided that the Subcontractor shall have taken all reasonable and available means to mitigate costs. Subcontractor shall not be entitled to recover any additional sums including any lost or unearned profits. The subcontractor's entitlements shall be specifically limited to the items specified herein. Any sums payable to the Subcontractor under the provision of the paragraph shall be subject to any setoffs, back charges or other expenses the Contractor may be entitled to under the provisions of this agreement.
3. If the Contractor exercised its rights under this paragraph as a result of a termination by the Owner, then Subcontractor shall be limited to such compensation as may be allowable under the prime contract provided that such compensation is actually paid by the Owner. Payment shall be made as provided in the provisions of Paragraph 9 governing final payment.

19. Debris Removal

Subcontractor will transport all debris resulting from its operation at least once daily or more often if directed by the Superintendent. If Subcontractor fails to remove its trash, the General

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Contractor will take action to clean up and the Subcontractor will be back charged for this work at a rate of \$65.00 per hour.

20. Project Inspection for Work to be Performed

Before proceeding with his work, the Subcontractor shall inspect all surfaces and preparatory work done by others, on which the Subcontractor's work is to be installed, determine if there is any condition that will prevent his completing his work satisfactorily and in accordance with plans and specifications as well as this agreement. He is to notify the General Contractor in writing before proceeding with his work of any such condition. If the Subcontractor proceeds without giving this written notice this shall constitute acceptance by the Subcontractor of all surfaces and preparatory work done by others, and any claims for additional costs or additional time for performance of the work shall be deemed waived.

21. Project Meetings

Weekly project meetings will take place on the job site. All subcontractors working on the project at any given time are required to attend the meetings. Notification of attendance by In Motion Builders, Inc., is not required for subcontractors with manpower on the project at the time of meeting. Subcontractors not working on site at the time of the meeting, but whose presence is needed will be notified by In Motion Builders, Inc. a minimum of 24 hours in advance. Subcontractor will be responsible for obtaining meeting minutes. Any failure on part of the subcontractor for work that was changed, added, scheduling changes or any other discussions that would adversely affect the subcontractor's work are the responsibility of the subcontractor to rectify at its own expense.

22. Closeout

Upon completion, and prior to final payment, the Contractor shall issue to the Subcontractor, a request for close out documents. The Subcontractor shall be responsible for collecting, identifying, indexing and collating the following materials, and will deliver three copies (or what is determined by prime contract) of the finished documents (as applicable) to the Contractor to verify completeness prior to submitting to the owner:

- Complete equipment diagrams, operating instructions, maintenance manuals, as-built documents, test and balance reports, guarantee and warranties. Also, specific information regarding manufacturer's name and address, nearest distributor and representatives names. Subcontractor shall also provide adequate systems training to Owner's permanent personnel.
- Unless otherwise noted in writing, the Subcontractor shall be given one (1) week to submit the required closeout documents. Failure to do so within said period of time will cause damages to the Contractor that would be difficult to ascertain. Therefore, it is agreed that the Subcontractor shall be liable to the Contractor for the stipulated sum of \$150.00 per day as liquidated damages for each day until the required closeout documents are 100% complete. If the Prime Contract calls for a higher rate of damages, the higher rate shall apply.
- Upon, completion, and prior to final payment, the Contractor shall issue in writing, to the Subcontractor, a complete list of outstanding items to be completed by Subcontractor (punch list). Failure to complete the punch list within said period of time (no less than seven (7) days), will cause damages to the Contractor that would be difficult to ascertain. Therefore, it is agreed that the Subcontractor shall be liable to the Contractor for the stipulated sum of \$550.00 per day as liquidated damages for each day until the punch list is 100% complete. If the Prime Contract calls for a higher rate of damages, the higher rate shall apply. These liquidated damages will be deducted from Subcontractor's final payment and Subcontractor hereby expressly consents to said deduction.

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Insurance Requirements (from the subcontract agreement)

Insurance shall be provided by a company from A.M. BEST, rating “A” or better. Insurance shall be Primary and Non-Contributory and written for not less than the following:

1. Worker’s compensation / Employers Liability insurance meeting the statutory requirements of the state in which work is to be performed and employer’s liability insurance in an amount of at least the following:
 - \$500,000 each employee – by accident
 - \$500,000 policy limit – by disease
 - \$500,000 each employee – by disease

2. Commercial General Liability insurance with a per project General Aggregate Limit (other than products-completed operations) with the following limits:
 - \$2,000,000 General Aggregate Limit
 - \$2,000,000 Products Completed Operations Aggregate Limit
 - \$1,000,000 Each Occurrence

The policy to provide coverage for premises-operations, independent subcontractors, products and completed operations (to be maintained for two years after completion of the project), owner’s & contractor’s protective, punitive damage, blanket contractual and broad form property damage including completed operations. Any “XCU” exclusions must be deleted when applicable to operations performed by subcontractor. The policy must include the owner, architect, and In Motion Builders, Inc. as additional insureds as a minimum unless agreed to elsewhere. It is further agreed that the coverage afforded to the additional insureds shall be primary insurance and any insurance coverage maintained by the additional insureds shall be excess of the insurance afforded them by the subcontractor’s general liability insurance. The general aggregate must apply separately to this project.

3. Commercial Automobile policy covering all owned, non-owned and hired (any) vehicles with the following limits:
 - Bodily Injury & Property Damage Liability
 - \$1,000,000 Combined Single Limit – each accident

4. Umbrella/Excess Liability:
(Must be excess over General Liability, Commercial Automobile Liability and Employers Liability)
 - \$1,000,000 Each Occurrence
 - \$1,000,000 Aggregate

5. Errors & Omissions in any professional services, but only when Subcontractor is specifically required to perform, or is made responsible for the performance of, such services by the Contract Documents:
 - \$1,000,000 Each Occurrence
 - \$1,000,000 Aggregate

6. Certificates of Insurance shall be filed with the Contractor within five (5) days after receipt of this Subcontract. **In Motion Builders, Inc. and the Project Owner shall be named as “Additional Insured” on all Primary and Excess Liability Policies.** No Subcontractor shall be allowed to start on site until full insurance coverage is submitted to In Motion Builders, Inc.

Additional Insured Endorsements must accompany the certificate of insurance and must provide coverage for ongoing and completed operations:

7. Waiver of Subrogation:

GC Initial _____

Sub Initial _____

The Contractor and Subcontractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Owner, the Architect, the Architect's consultants, separate contractors, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance provided under the Prime Contract or other property insurance applicable to the Work, except such rights as they may have to proceeds of such insurance held by the Owner as a fiduciary. The Subcontractor shall require of the Subcontractor's Sub-subcontractors, agents and employees, by appropriate agreements, written where legally required for validity, similar waivers in favor of the parties enumerated herein. The policies shall provide such waiver of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

IN WITNESS WHEREOF, the parties have executed this Subcontract Agreement the day and year first above written.

Subcontractor

In Motion Builders, Inc.

By: _____
Signature

By: _____
Signature

Name and Title

Name and Title

Date

Date

Federal I.D. No. _____ or

Social Security No. _____

GC Initial _____

Sub Initial _____

Exhibit “C”

Scope of Work

Exhibit "D"

Change Orders/Requests Submission Requirements

All change orders and requests must be accompanied by the In Motion Builder's work authorization form and must be signed by the project superintendent. Please note that work authorizations only approve that the work must be performed or that the work is complete. Only the project manager of each project can approve the cost for any additional work and the hours being charged. Superintendents are not responsible for tracking the hours worked. The project manager will determine if the hours are reasonable for the work performed. Hours charged for any changes can only include the hours of the individuals performing the work and not supervision fees (unless the supervisor assisted or performed the work directly).

All change orders and requests must include the following information:

1. Material cost with material invoices attached.
2. Labor cost (must include how many hours being charged for and what the hourly rate is).
3. Profit and Overhead cannot exceed 15%, combined.

PLEASE COMPLETE THE BOX BELOW

Please complete the box below as it pertains to the employees that will be working on this project. Example; Apprentice, Journeymen, etc. as type of employees. The rates below will be the maximum allowed on any change order/request.

Change Order/Request predetermined costs:

Type of Employee	Hourly Rate	Overtime Hourly Rate	Premium Rates

****If this section is not completed by Subcontractor, In Motion Builders will determine what a fair and reasonable rate is****

Signature and Title

Date

GC Initial _____
Sub Initial _____