

Sample Subcontract

STANDARD FORM OF AGREEMENT BETWEEN CONTRACTOR AND SUBCONTRACTOR.

AGREEMENT DATE: Monday, June 01, 2009

CONTRACTOR:

Albritton Williams, Inc. (AWI)
P.O. Box 13647
Tallahassee, FL 32317

SUBCONTRACTOR:

Sample Subcontractor, Inc.
1234 Sample Road
Sample, FL 32310

OWNER:

Florida State University
Suite 125 Mendenhall, Building A
Tallahassee, FL 32306-4153

ARCHITECT:

Hicks Nation Architects, Inc.
1382 Timberlane Road, Suite C
Tallahassee, FL 32312

PROJECT:

**NHMFL Helium Purifier Room Expansion
1800 East Paul Dirac Drive
Tallahassee, FL 32310**

Albritton Williams, Inc. and Sample Subcontractor, Inc. agree to be bound to each other in relation to the Project according to the specific terms of the **1997 Edition of AIA Document A401** that are specifically adopted herein and the additional terms set forth for each article.

1. THE SUBCONTRACT DOCUMENTS

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt articles 1.1, 1.2, and 1.3. The edition of AIA Document A401 referenced in article 1.2 shall be the 1997 edition.

1.4 All Subcontract Documents shall be available for inspection by Subcontractor upon request, but AWI may charge Subcontractor for the reasonable cost of reproduction and handling.

2. MUTUAL RIGHTS AND RESPONSIBILITIES:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt articles 2.1 and 2.2.

3. CONTRACTOR:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt articles 3.1.3, 3.2.1, 3.2.2, 3.2.3, 3.3.1, and 3.4.1.

3.1.1 Albritton Williams, Inc. shall make available its project schedule to Subcontractor.

3.3.2 AWI's claims for services or materials provided Subcontractor shall require prior written notice except in an emergency and written compilations to Subcontractor of services and materials provided and charges for such services and materials.

4. SUBCONTRACTOR:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt article 4.

4.1.3 This article is hereby amended to require Subcontractor to provide its schedule of values to AWI immediately upon execution of this Agreement.

4.4.2 This article is hereby amended to provide that Subcontractor shall clean up upon no less than one day notice before AWI may exercise its rights under this article.

4.6.1 This article is hereby amended to delete the word "negligent" and to provide that Subcontractor will defend AWI if it has a duty to indemnify it.

4.6.3 In consideration of one hundred dollars (\$100) and other good and valuable consideration, exchanged each with the other and acknowledged by the signing of this Agreement, both AWI and Sample Subcontractor, Inc. have agreed to the terms of indemnification set forth herein.

5. CHANGES IN THE WORK:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt article 5. This article is hereby amended to provide that, in the absence of a formula for determining reasonable overhead and profit in the Subcontract Documents, AWI and Subcontractor agree that a reasonable overhead and profit shall be 15.00% of labor, material & equipment costs for work performed by Subcontractor, and 7.50% for work performed by this Subcontractor's subcontractors.

6. MEDIATION AND ARBITRATION:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt article 6 only if the Prime Contract between Florida State University and Albritton Williams, Inc. requires mediation and arbitration. Otherwise, all disputes shall be determined as provided in the Prime Contract or, if there is no such provision, by litigation in a court of law located in Leon County, Florida.

7. TERMINATION, SUSPENSION OR ASSIGNMENT OF THE SUBCONTRACT:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt articles 7.1, 7.2, 7.3, and 7.4.

7.2.5 Notwithstanding the terms of articles 7.2 and 7.3, Albritton Williams, Inc. may terminate and/or suspend Subcontractor for the same reasons and under the same circumstances and procedures with respect to Subcontractor as Owner may terminate and/or suspend with respect to Albritton Williams, Inc. under the Prime Contract and shall be liable, if at all, only to the same extent as Owner is liable to and actually compensates Albritton Williams, Inc.

7.4.2.1 Albritton Williams, Inc. hereby requests written notification from Subcontractor if Subcontractor intends to further subcontract portions of this Subcontract.

8. THE WORK OF THIS SUBCONTRACT:

Sample Subcontractor, Inc. shall perform all the work required by the Subcontract Documents including all Labor, Materials, Equipment, Services and other items required to complete all **Sample Work** per the Subcontract Documents. This Subcontract specifically includes, but is not limited to, the following items:

- 001 Supervision, Layout and Coordination of the Work in this Subcontract
- 002 Cleanup & Removal of Debris & Rubbish caused by Operations Performed under this Subcontract
- 003 Daily Maintenance of a Safe, Clean and Orderly Premises and Work Area
- 004 Sample Scope of Work
- 005 Specification Section #####

Items specifically excluded from this Subcontract are as follows:

- 001 Work included in other Bid Packages

9. DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt articles 9.1, 9.2, 9.4, and 9.5.

9.6 Subcontractor shall perform the Work in strict compliance with the project schedule prepared by Albritton Williams, Inc. as amended from time to time and shall not directly or indirectly prevent, delay or interfere with the performance of the work of any other person or entity on the project. Subcontractor is responsible for consulting the project schedule and confirming its requirements with Albritton Williams, Inc.

9.7 Subcontractor shall pay to Albritton Williams, Inc. as liquidated damages the amount of \$500.00 for each calendar day that Subcontractor's work fails to meet the project schedule. This liquidated amount represents only the loss of efficiency and productivity damages expected to be incurred by AWI which are difficult to calculate, and Subcontractor shall remain liable for damages incurred by AWI for other delay-related damages including, without limitation, liability to Owner and subcontractors and suppliers and costs incurred by AWI.

10. THE SUBCONTRACT SUM:

10.1 Albritton Williams, Inc. shall pay to Sample Subcontractor, Inc. in current funds for complete performance of the Subcontract the Subcontract Sum of **Forty thousand and 00/100 Dollars, (\$40,000.00)**, subject to additions and deductions as provided in the Subcontract Documents.

10.2 The Subcontract Sum is based upon the following alternates, if any, which are described in the Subcontract Documents and have been accepted by the Owner and Albritton Williams, Inc.:

001 None

10.3 Unit prices, if any, are as follows:

None

11. PROGRESS PAYMENTS:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt articles 11.1, 11.4, 11.5, 11.6 and 11.8.

11.2 The period covered by each application for payment shall be one calendar month ending on the 25th day of the month.

11.3 Provided an application for payment is received by AWI not later than the 27th day of the month, AWI shall include Subcontractor's Work covered by the application in the next application for payment which AWI is entitled to submit to Architect. AWI shall pay Subcontractor each progress payment within three working days after AWI receives payment from Owner. Subcontractor's application for payments must be submitted on AWI's form entitled "Subcontractor's Request for Payment." AWI shall retain from each progress payment a retainage equal to the amount retained by Owner from AWI for Subcontractor's work. The amount of the progress payment shall be less any set offs and recoupments asserted by AWI in good faith. Notwithstanding any other terms of this agreement to the contrary, no progress payment shall be due until AWI receives payment for Subcontractor's work by Owner and Subcontractor provides valid lien waivers and waivers of claim against AWI and its surety from Subcontractor and all lienors and claimants that could make claim through Subcontractor. Notwithstanding any other terms of this Subcontract to the contrary, if Owner fails to make payment to AWI for Subcontractor's work, AWI and its surety shall not be liable to Subcontractor; Subcontractor specifically agrees to assume the risk of nonpayment by Owner and shall rely only on its lien rights against Owner. Subcontractor shall promptly refund the amount of any overpayment of any progress payment. Subcontractor authorizes AWI to set off from the Subcontract Amount any damages claimed by AWI on any project and any other obligation.

12. FINAL PAYMENT:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt article 12.2.

12.1 Final Payment shall be made by Albritton Williams, Inc. to Sample Subcontractor, Inc. following Subcontractor's application for final payment on AWI's form entitled "Subcontractor's Request for Payment," AWI's receipt of final payment for Subcontractor's work from Owner, AWI's receipt of final lien waivers from Subcontractor and all lienors claiming through Subcontractor, AWI's receipt of a release of all claims against AWI and its surety from Subcontractor and all other persons and entities that could make claim through Subcontractor, and AWI's receipt of all project paperwork, submittals, guaranties and other documents required by the Subcontract Documents. Notwithstanding any other terms of this Subcontract to the contrary, if Owner fails to make payment to AWI for Subcontractor's work, AWI and its surety shall not be liable to Subcontractor; Subcontractor specifically agrees to assume the risk of nonpayment by Owner and shall rely only on its lien rights against Owner. Subcontractor shall promptly refund the amount of any overpayment of any progress payment. Subcontractor authorizes AWI to set off from the Subcontract Amount any damages claimed by AWI on any project and any other obligation.

13. INSURANCE AND BONDS:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt articles 13.2, 13.3, 13.4, 13.5 and 13.8.1.

13.1 Sample Subcontractor, Inc. shall purchase and maintain insurance of the types and in the minimal amounts as required by the Subcontract Documents and/or as may be required by law, but in no event less than the types and amounts set forth in the attached sample ACORD "CERTIFICATE OF LIABILITY INSURANCE" Form.

13.6 Sample Subcontractor, Inc. shall provide the following bonds:

Payment - **Not Required**
Performance - **Not Required**

13.9 Additional insured endorsement: The Bodily Injury and Property Damage Liability policies shall include a provision or endorsement naming Albritton Williams, Inc. as additional insured with respect to liabilities arising out of Sample Subcontractor, Inc.'s performance of the work under this contract, and providing that such insurance is primary insurance with respect to the interest of AWI and that any other insurance maintained by AWI is excess and not contributing insurance with the insurance requirement hereunder. The additional insured endorsement shall provide coverage at least as broad as Additional Insured (Form B) endorsement form CG 20 10 11 85 as published by the Insurance Services Office (ISO).

14. TEMPORARY FACILITIES AND WORKING CONDITIONS:

14.1 Albritton Williams, Inc. shall furnish and make available to Subcontractor only the following temporary facilities, equipment and services; these shall be furnished at no cost to Subcontractor unless otherwise indicated below:

Dumpster, Port-A-Let

14.2 Albritton Williams, Inc. shall conduct Weekly Production Meetings at the jobsite unless project conditions, as determined by AWI, do not warrant a meeting. The purpose of these meetings is to enhance coordination and communication throughout the Project. An authorized representative of Subcontractor shall attend each meeting unless excused by AWI. It shall be Subcontractor's responsibility to verify with the Project Superintendent the weekly meeting date and time.

15. MISCELLANEOUS PROVISIONS:

Albritton Williams, Inc. and Sample Subcontractor, Inc. adopt articles 15.1 and 15.4.

15.5 Sample Subcontractor, Inc. is an independent contractor in all respects and is solely responsible for determining the means and methods of performing its Work except as provided in this Subcontract.

15.6 This Subcontract may not be modified orally or by any other means except in a written document executed by Albritton Williams, Inc. and Subcontractor.

15.7 In any action at law to interpret or enforce the terms of this Subcontract or any related matter, the prevailing party shall be entitled to recover its cost and attorney's fees relating to the action and any appeal thereof from the other party.

15.8 Sample Subcontractor, Inc. shall continue to perform its work without delay, even if it contends Albritton Williams, Inc. is in breach.

16. ENUMERATION OF SUBCONTRACT DOCUMENTS:

16.1 The Subcontract Documents, except for Modifications issued after execution of this Subcontract, are enumerated as follows: (1) this Subcontract; (2) the portions of AIA Document A401 expressly adopted herein; (3) the additional terms set forth herein; (4) AIA Document A201 to the extent not in conflict with other terms of this Subcontract; (5) the Prime Contract, consisting of the Agreement between Florida State University and Albritton Williams, Inc. and the other Contract Documents enumerated in the Owner/Contractor Agreement; (6) the following Modifications to the Prime Contract, if any, issued subsequent to the execution of the Owner/Contractor Agreement, but prior to the execution of this Agreement:

Modifications as follows: None

Albritton Williams, Inc.

Sample Subcontractor, Inc.

James F. Chason, President

John Doe, President
FED ID # _____
S.S.# _____

Please sign (including seal if applicable) and return both copies to our office by Friday, June 12, 2009 at 2:00pm. One copy will be signed and returned to you for your files.

