

SUBCONTRACT AGREEMENT

THIS AGREEMENT is made this day of 200 , by and between Systems, Inc., W194 N11481 McCormick Dr., Germantown, WI 53022 (“Contractor” for purposes of this Agreement) and , (“Subcontractor” for purposes of this Agreement).

Article 1

Scope Of Work

- 1.1 The Subcontractor shall perform all the work necessary to properly install the items further described in the installation instructions and purchase order no. , attached hereto. All items shall be installed in accordance with said instructions and purchase order.
- 1.2 The work to be performed under this agreement shall be commenced on and shall be completed not later than unless changed as the parties mutually agree in writing.
- 1.3 Time is of the essence as to this agreement.

Article 2

Payment

- 2.1 The Contractor shall pay the subcontractor, subject to authorized written change orders, the sum of upon performance of the work to be performed under this agreement pursuant to the following terms: upon completion of work and receipt of all completed paperwork enclosed
- 2.2 Before issuance of final payment, the subcontractor shall submit to contractor a waiver of lien statement. If requested by the contractor, the subcontractor shall also provide evidence satisfactory to the contractor that all indebtedness of the subcontractor connected with the work to be performed under this agreement has been satisfied.
- 2.3 If the Subcontractor fails or neglects to carry out the work in accordance with this agreement, or otherwise to perform in accordance with this agreement, and fails within three (3) days after receipt of written notice to commence and continue correction of such default or neglect with diligence and promptness, the contractor may, without prejudice to any other remedy it may have, in its sole discretion, terminate this agreement and finish the work by whatever method it may deem expedient. If the unpaid balance of the contract sum exceeds the expense of finishing the work, such excess shall be paid to the subcontractor. But if such expense exceeds such unpaid balance, the subcontractor shall pay the difference to the contractor within 10 days of receipt of notice from contractor.

Article 3

Insurance and Indemnification

- 3.1 Prior to starting the work to be performed under this agreement, the subcontractor shall obtain and pay for Employer’s Liability or Workmen’s compensation insurance as required by state law, and also Public Liability and Property Damage Insurance satisfactory to contractor. Subcontractor shall furnish satisfactory evidence to contractor that it has complied with these requirements. A sample insurance certificate with minimum requirements is attached.
- 3.2 Subcontractor shall defend, indemnify and hold harmless the Contractor, Contractors subsidiaries, agents, officers, successors and employees from and against all claims, damages, losses and expenses, including attorneys’ fees, arising out of or resulting from the performance of the work or connected in any way to the performance of subcontractors work under this agreement, provided that any such claim, damage, loss or expense is caused in whole or in part by any negligent act or omission of the Subcontractor, anyone directly or indirectly employed by the Subcontractor, or anyone whose acts the Subcontractor may be liable, including but not limited to any such claim, damage, loss or expense that:
 - 3.2.1 Is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible and intangible property, including loss of use there from; or
 - 3.2.2 Is alleged to have arisen out of any breach of Subcontractor.
- 3.3 This indemnification agreement shall not be limited in way by any limitations on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under workers’ compensation acts, disability benefit acts, or other employee benefit acts, and Subcontractor expressly waives the benefits of any liability cap recognized by any local, state or federal laws
- 3.4 The Subcontractor’s indemnification obligations under this agreement are not limited by the insurance requirements of this Agreement. In addition to the indemnification obligations hereunder, The

- Subcontractor waives, and shall cause each of its subcontractors of every tier to waive, any rights under any workers compensation, disability, or other employee benefit act, that any of them may have to limit the amount of damages, losses, or obligations which may be recoverable under this indemnification or under contribution acts or other applicable laws.
- 3.5 Subcontractor shall indemnify and hold the Contractor and the Owner harmless for any and all liens, encumbrances, claims, obligations or liabilities (“Liens”) which may be asserted against the Contractor, Owner or their property by reason of or as a result of any acts or omissions of the Subcontractor, his employees, representatives, licensees, or subcontractors, in connection with or related to the performance of this Agreement. The Contractor may withhold and retain from time to time out of any moneys due the subcontractor amounts sufficient fully to obtain the release or satisfaction of such a Lien and to recover any loss or damage which the Contractor sustains, or may sustain, as a result of any such Liens.
- 3.6 The Subcontractor assumes the risk of and liability for loss or damage to the Subcontractor’s materials, tools or equipment.
- 3.7 In the event that the Subcontractor contracts with any other person for the performance of any of the Subcontractor Work (a “lower Tier Subcontract”), each such “Lower Tier Subcontract” shall include the indemnification of the Contractor, the Owner, and their respective officers, directors, agents and employees, on the terms provided in this paragraph.
- 3.8 The subcontractor acknowledges that it has appropriately trained employees and/or subcontractors who will complete the necessary installation or repair work to be performed under this agreement.

Article 4

Change Orders

- 4.1 The subcontractor shall make all requests to the Contractor for additional costs, extensions of time and damages for delays or other causes promptly and in writing. Such change orders shall not be considered authorized until signed by an appropriate representative of the contractor.
- 4.2 The subcontractor may be ordered in writing by the contractor, without invalidating this agreement, to make changes in the work within the general scope of this agreement, consisting of additions, deletions, or other revisions and the contract time will be adjusted accordingly.

Article 5

Compliance

- 5.1 The subcontractor shall comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the work under this agreement. The subcontractor shall secure and pay for all permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the work under this agreement.
- 5.2 The subcontractor shall comply with Federal, State and local tax laws, social security acts, unemployment compensation acts and workers or workmen’s compensation acts, insofar as applicable to the performance of the work under this agreement.
- 5.3 The subcontractor shall take necessary precautions to protect properly the finished work of other trades from damage caused by its operations.
- 5.4 The subcontractor shall take all reasonable safety precautions with respect to the work to be performed under this agreement, including only the use of qualified and trained personnel, and shall comply with all standard safety measures and with all applicable laws, ordinances, rules, regulations and orders of any public authority for the safety of persons or property.

Article 6

Guarantees

- 6.1 The Subcontractor guarantees all of the work provided for by this agreement against defects in materials or workmanship for a period not less than twelve (12) months following the date of final acceptance of such work by the Contractor. Under this guarantee, the Subcontractor shall make good, at its own expense and without delay, any defects or failure of any part of the work due to poor or faulty workmanship, materials, or installation or due to the failure of any equipment or materials to satisfactorily perform as required by this agreement. The subcontractor shall also, at its expense, make good any damage to any part or latent defect in material or workmanship which is identified following the date of final acceptance of the work and release and payment of the final amounts. Such defects shall be corrected at the subcontractor’s expense within thirty (30) days following notice. Any work replaced

or rebuilt during the above mentioned guaranty periods shall be guaranteed for a twelve (12) month period starting from the date of acceptance of the repair, reconstruction or replacement.

Article 7

Miscellaneous

- 7.1 The subcontractor shall not assign or subcontract any aspect of this agreement without the written consent of the contractor.
- 7.2 The parties certify that subcontractor is an independent contractor and is in no way considered to be an employee or agent of the contractor.
- 7.3 The subcontractor certifies that they have received, read and understand all owners manuals and installation instructions for all products related to this subcontract and that they have appropriate personnel and equipment to complete proper installation in accordance with appropriate owners manuals and instructions.
- 7.4 The subcontractor shall supply all necessary and required labor, equipment and materials, for the proper completion of the work to be performed under this agreement. The subcontractor shall be responsible for the transportation, including cost of the necessary and required laborers, equipment and materials, to the premises.
- 7.5 The subcontractor shall at all times keep the premises free from the accumulation of waste materials and debris arising from the work to be performed under this agreement.
- 7.6 The subcontractor warrants that all work performed under this agreement shall be of good quality, free of faults and defects and in conformance with the attached installation instructions and purchase order.
- 7.7 The subcontractor shall appropriately coordinate its work to be performed under this agreement in conjunction with the work of other trades and the contractor at the premises. The subcontractor shall coordinate and report its progress of work under this agreement to the contractor's designated employee if one is so designated by the contractor.
- 7.8 This agreement contains the entire understanding of the parties hereto and supersedes any and all understandings or agreements, whether written or oral, prior to the execution hereof.
- 7.9 If any clause or provision of this agreement is or would be invalid, illegal or unenforceable, in whole or in part, under applicable law, said clause or provision shall be deemed severed herefrom, and the validity, legality and enforceability of the remainder of this Agreement shall not in any way be affected thereby and shall remain operative and in full force and effect.
- 7.9.1 This agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Wisconsin. The parties hereto expressly consent to the jurisdiction of the courts of Wisconsin.

This agreement is entered into as of the date first written above.

SYSTEMS, INC., Contractor

Subcontractor

By: _____

By: _____

Title: _____

(must be signed by officer with
authority to bind subcontractor)

Updated 12/07