

SUBCONTRACT AGREEMENT
SUBCONTRACT GENERAL TERMS AND CONDITIONS

ALL TRANSACTIONS BY AND BETWEEN TRIMARK USA LLC, OR ANY OF ITS AFFILIATES, SUBSIDIARIES, SUCCESSORS OR ASSIGNS (COLLECTIVELY, "TRIMARK"), ON THE ONE HAND, AND ITS SUPPLIERS, SUBCONTRACTORS OR VENDORS WHICH ARE PROVIDING SERVICES TO TRIMARK AND/OR ON BEHALF OF TRIMARK IN CONNECTION WITH A PROJECT, ON THE OTHER HAND, ARE GOVERNED BY THESE SUBCONTRACTOR GENERAL TERMS AND CONDITIONS. ANY PROPOSAL OR DOCUMENT FROM A SUPPLIER, SUBCONTRACTOR OR VENDOR THAT INCLUDES COMPETING TERMS ARE OBJECTED TO AND SHALL BE OF NO FORCE OR EFFECT.

1. Definitions

TriMark shall refer to TriMark USA, LLC or the subsidiary or affiliate, (collectively, "TriMark") that issued the Purchase Order and is entering into this Subcontract Agreement. **Subcontract Agreement** is these Subcontract General Terms and Conditions, which represent the agreement between the TriMark and the Subcontractor. **Subcontractor** is the party with whom TriMark. executes this agreement.

Prime Contractor is the party with whom TriMark has an agreement to perform work as a subcontractor in accordance with a written agreement ("Lead Contract"). This party may be a General Contractor, Construction Manager, or another Subcontractor. When TriMark contracts directly with an Owner, the Owner shall assume the rights and duties of the Prime Contractor.

Owner is the party with whom the Prime Contractor executes a written construction agreement ("Prime Contract").

Purchase Order shall mean a quote, purchase order, or transmission from TriMark requesting and/or detailing the scope of the Subcontractor's work ("Work") to be performed by the Subcontractor and the amount to be paid by TriMark to Subcontractor for the satisfactory completion of the Work.

Change Order shall mean a written instrument prepared by TriMark and signed by the Subcontractor stating their agreement regarding a change in the Work; a Change Order may be in the form of a Purchase Order.

Project shall mean the overall work to be performed as defined by the Contract Documents, including but not limited to the Work.

2. Acceptance

Any Purchase Order shall be subject to, and shall be conditioned upon, Subcontractor's assent to this Subcontract Agreement, which shall be presumed from Subcontractor's acknowledgment of a Purchase Order, and/or initiation of the Work, and/or acceptance of payment. Any terms or conditions or .html links on any quote, order form or other documents provided by Subcontractor shall be null and void. Subcontractor agrees that no other writing shall be required to make this Subcontract Agreement legally binding and Subcontractor agrees not to contest the validity or enforceability of this Subcontract under the provisions of a statute of frauds or any other applicable law.

3. Subcontract Documents

The contract documents include this Subcontract Agreement, the Lead Contract, Prime Contract and the documents issued for purposes of bidding the Work (collectively, the "Contract Documents"). These documents include the plans and specifications contract addenda, authorized changes, additions and modifications, drawings, details, together with all general, technical, supplementary and special terms and conditions, and all other documents listed in or referred to within the Contract Documents. In the event of a conflict between the terms contained herein and the other Contract Documents, the terms imposing the greater duty on the Subcontractor shall govern. Subcontractor hereby acknowledges and agrees that it shall be bound to TriMark by the terms and conditions of the Contract Documents, including, as applicable, any local, state, and/or federal government acquisition rules and regulations, as the same shall be applicable to the Subcontractor's Work, and hereby assumes toward TriMark all of the duties, obligations and responsibilities that TriMark has assumed by the Contract Documents. The Contract Documents are available for examination by Subcontractor upon reasonable request. By initiating performance of the Work as defined hereunder, Subcontractor is certifying that it has carefully reviewed the Contract Documents and TriMark shall not be responsible for any inconsistencies or deficiencies within the Contract Documents which may cause Subcontractor to incur additional costs greater than the amount specified on the Purchase Order.

4. Contract Payment

TriMark agrees to pay Subcontractor for satisfactory performance of the Work, the amount specified on the Purchase Order, which sum includes all applicable taxes, and is subject to additions or deductions as provided in Article 5. Progress payments less the retention specified in the Contract Documents shall be made to Subcontractor for Work satisfactorily performed no later than seven (7) days after receipt by TriMark of payment from Owner or Prime Contractor for Subcontractor's Work. The acceptance by the Subcontractor of each progress payment from TriMark shall constitute a waiver an release of all claims against TriMark for Work performed (exclusive of claims to retention), including but not limited to any claims for additional compensation of any type that has arisen prior to the date of the Subcontractor's estimate for payment, including delay, disruption, interference, or acceleration, and for every alleged act or omission of TriMark, arising out of or related to the Subcontract prior to the date of the estimate for payment. Final payment of the balance due shall be made to Subcontractor no later than seven (7) days after receipt by TriMark of final payment from Owner or Prime Contractor for Subcontractor's Work. These payments are subject to receipt of such lien waivers, affidavits, warranties and guarantees required by the Contract Documents or TriMark.

5. Subcontract Change Orders

TriMark and the Subcontractor agree that TriMark may add to or deduct from the amount of the Work covered by this Subcontract Agreement, and any changes so made in the amount of the Work involved, or any other parts of this Subcontract Agreement, shall be by a written Change Order setting forth in detail the changes involved and the value of such which shall be mutually agreed upon between TriMark and the Subcontractor, and contingent upon receipt of the same from Prime Contractor or Owner. The Subcontractor agrees to proceed with the Work as changed when so directed in writing by a construction change directive which shall be a written instrument providing instructions on the addition, reduction or alteration to the Work and which may defer the agreement of the price of such change to the execution of a Change Order, issued by TriMark or the Prime Contractor or Owner so as not to delay the progress of the Work, and pending any determination of the value, in the interest of clarity Subcontractor shall commence with changes as directed through a construction change order and shall not delay commencement for final agreement on value or change in schedule arising from the directed changes. TriMark shall not make changes in Work, whether additions, deletions or other revisions in any manner except by written Change Order or construction change directive. If TriMark requests a proposal of cost for a change, the Subcontractor shall promptly comply with such request.

6. Scope of Work

Subcontractor agrees to commence Subcontractor's Work described in the Purchase Order upon notification by TriMark, and to perform and complete such Work in accordance with Contract Documents and under the general direction of TriMark in accord with the TriMark's schedule. This shall include all work necessary or incidental to complete the Work for the Project in strict accordance with and reasonably inferable from the Contract Documents. Subcontractor shall be responsible for the cleaning and removal of debris generated by its Work and the debris generated by parties which Subcontractor is not responsible for.

7. Permits, Fees, Notices and Compliance with the Laws

Subcontractor shall give notices and comply with applicable laws, statutes, ordinances, codes, rules, licensing regulations and lawful orders of public authorities bearing on performance of the Work of this Subcontract Agreement. Subcontractor shall secure and pay for permits, fees, licenses and inspections by the authority having jurisdiction for proper execution and completion of the Work, the furnishing of which is required of TriMark by the Contract Documents. Subcontractor shall

comply with Federal, state and local tax laws, social security acts, unemployment compensation acts as applicable to the performance of this Subcontract Agreement or as specified in the Contract Documents.

8. Governing Law and Jurisdiction

This agreement should be governed by and enforced in accordance with the law of the state in which the Project is located. Any litigation arising under this Agreement shall be brought in the state in which the Work is to be performed as specified in the Contract Documents. In the event that either party retains an attorney in connection with any dispute related to this Subcontract Agreement, the party found responsible will be liable for all legal fees.

9. Schedule of Work

Time is of the essence. Subcontractor shall provide TriMark with any requested scheduling information of the Work. TriMark will prepare or provide a schedule which will set forth the required durations for activities (the "Schedule of Work"), including the Work, and may be revised as the Work progresses. Subcontractor recognizes that changes may be made in the Schedule of Work and agrees to comply with such changes without additional compensation. Subcontractor shall coordinate its work with all other contractors, subcontractors, and suppliers on the Project so as not to delay or damage their performance, work, or the Project.

10. Delay

Subcontractor is responsible for any delays it causes in completing the Project in accordance with the Schedule of Work, and shall pay TriMark for all costs and damages suffered by TriMark as a result of such delays assessed against TriMark under the Contract Documents, to the extent caused by the Subcontractor and/or those for whom Subcontractor is responsible. TriMark shall not be liable to Subcontractor for delay to Subcontractor's Work caused by the act, neglect or default of the Owner, Architect, General Contractor, other subcontractors, or by reason of fire or other casualty, or on account of any acts of God or any other cause beyond the direct control of TriMark, or on account of any circumstance caused or contributed to by the Subcontractor. The Subcontractor's sole remedy for delay caused by TriMark may be an extension of time for completion equal to the delay caused by TriMark, if and when written notice and claim for delay are made and approved in accordance with the requirements of the Contract Documents. The Subcontractor expressly waives any claims for additional compensation arising directly or indirectly from delays caused by TriMark.

11. Materials or Equipment Furnished by Others

In the event the scope of the Work includes installation of materials or equipment furnished by others, it shall be the responsibility of the Subcontractor to exercise proper care in receiving, handling, storing and installing such items, unless otherwise provided in the Contract Documents. The Subcontractor shall examine the items provided and report to TriMark in writing any items it may discover that do not conform to requirements of the Contract Documents. The Subcontractor shall not proceed to install nonconforming items without further instructions from TriMark. Loss or damage due to acts or omissions of the Subcontractor shall be deducted from any amounts due or to become due the Subcontractor.

12. Correction of Subcontract Work

If the Work is not in conformance with the Subcontract Documents, the Subcontractor shall promptly correct the Subcontract Work, whether it had been fabricated, installed or completed. The Subcontractor shall be responsible for the costs of correcting such Work, any additional testing, inspections, and compensation for services and expenses of the Architect/Engineer, General Contractor or Owner and TriMark made necessary by the defective Work.

13. Failure of Performance

Should Subcontractor fail to satisfy contractual deficiencies within five (5) working days, from receipt of TriMark's written notice, or such shorter time period as required by the Contract Documents, then such failures shall constitute a default hereunder by Subcontractor and, in such event, TriMark, without prejudice to any right or remedies, shall have the right to take whatever steps it deems necessary to correct said deficiencies, including but not limited to completing the Subcontractor's Work with its own forces and/or terminating this Subcontract, and charge the cost thereof to Subcontractor, who shall be liable for payment of same, including reasonable overhead, profit and attorneys' fees.

14. Indemnification

To the fullest extent permitted by law, Subcontractor agrees to defend, indemnify and save harmless TriMark, Prime Contractor, and Owner, as well as any other parties which TriMark is required under the Contract Documents to defend, indemnify and hold harmless, and their agents, servants and employees, from and against any claim, cost expense, or liability (including reasonable attorneys' fees, expert witness fees), attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), caused by, arising out of, resulting from, or occurring in connection with the performance of the Work by Subcontractor, its subcontractors and suppliers, or their agents, servants, or employees, whether or not caused in part by the active or passive negligence or other fault of a party indemnified hereunder; provided, however, Subcontractor's duty hereunder shall not arise if such injury, sickness, disease, death, damage, or destruction is caused by the sole negligence of a party indemnified hereunder. Subcontractor's obligation hereunder shall not be limited by the provisions of any workers' compensation or similar act. Subcontractor hereby agrees that One Hundred Dollars and No/Cents (\$100.00) of the fees payable to the Subcontractor constitutes the separate consideration for Subcontractor's indemnity obligations hereunder. Such amount shall be deemed paid out of the first application for payment paid hereunder. Should Owner or any other person or entity assert a claim or institute a suit, action, or proceeding against TriMark involving the manner or sufficiency of the performance of the Work, Subcontractor shall, upon request of TriMark, promptly assume the defense of such claim, suit, action or proceeding at Subcontractor's expense, and Subcontractor shall indemnify and save harmless TriMark as well as anyone to be defended, indemnified and held harmless by TriMark and its or their agents, servants and employees, from and against any liability, loss, damage, or expense arising out of or related to such claim, suit action, or proceeding. These obligations shall not be interpreted to reduce or negate any other rights or obligations of indemnity otherwise existing with regard to any party or person described in this Article.

15. Safety

The Subcontractor is required to perform the Subcontract Work in a safe and reasonable manner. The Subcontractor shall seek to avoid injury, loss or damage to persons or property by taking reasonable steps to protect 1) employees and other persons at the site; 2) materials and equipment stored at the site or at off-site locations for use in performance of the Subcontract Work; and 3) all property and structures located at the site and adjacent to work areas, whether or not said property or structures are part of the Project or involved in the Work. The Subcontractor shall be responsible for their own safety program and shall perform its Work in accordance with the safety laws of the state in which the Project is located and Federal OSHA agencies. TriMark and the Subcontractor shall give all notices required by law and the Subcontract Documents and comply with all applicable rules, regulations, orders and other lawful requirements established to prevent injury, loss or damage to persons or property.

16. Submittals & Notices

The Subcontractor shall promptly submit for approval to the TriMark all shop drawings, samples, product data, manufacturers' literature and similar submittals required by the Contract Documents. The Subcontractor shall prepare and deliver its submittals to the TriMark in a manner consistent with the Schedule of Work and in such time and sequence so as not to delay TriMark or others in the performance of the Work. When its submittals are delivered to TriMark, the Subcontractor shall advise TriMark in writing of any deviations in the submittals from the requirements of the Contract Documents and shall note such deviations in its submittals. In the absence of any such notifications, the Subcontractor shall warrant that its submittals are in conformance with the Contract Documents. The Subcontractor shall be responsible to TriMark for the adequacy, accuracy, completeness and conformity of its submittals to the Contract Documents. Notices of delay, unforeseen conditions, changes to the scope of work, and any other notices from the Subcontractor shall be provided in writing to TriMark in a timely manner so as to allow TriMark no less

than three (3) business days to file such notice(s) with the Prime Contractor or Owner.

17. Insurance

Subcontractor shall maintain at its own expense at all times the insurance types and coverages as required by the Contract Documents with a reputable and financially responsible carrier(s) or at a minimum Worker's Compensation and Occupational Disease Insurance in accordance with applicable law and Employer's Liability Insurance with coverage of not less than One Million (\$1,000,000) Dollars, and all other insurance required by applicable law. Subcontractor shall furnish insurance certificates as directed by TriMark, satisfactory in form and substance to TriMark, showing the required coverages, and providing for at least thirty (30) days' prior written notice to TriMark by the insurance company of cancellation or material modification.

18. Non-Assignability

Subcontractor shall not assign nor subcontract any Work to be performed without the prior written consent of TriMark; provided, however, this provision shall not restrict Subcontractor in the procurement of component parts or materials.

19. Warranties

Subcontractor warrants all materials and equipment furnished under this Subcontract Agreement shall be new, unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Warranties shall commence on the date of Substantial Completion of the Work or a portion of the Work as designated in writing by TriMark, and shall be assigned to the Prime Contractor or Owner upon Substantial Completion.

20. Termination

If Owner or Prime Contractor terminates the Prime or Lead Contract or stops the Work for a reason other than the sole default of TriMark, TriMark may terminate this Subcontract or stop the Work for the same reason, and Subcontractor's rights and remedies, including the basis for payment of any unpaid portion of the fees payable to the Subcontractor, shall be limited to the corresponding rights and remedies available to TriMark under the Contract Documents. Should this Subcontract be terminated for default, Subcontractor shall assign any and all purchase orders and subcontracts to TriMark, if TriMark, in its sole and absolute discretion, requests such assignments. Subcontractor agrees to incorporate such provisions in its agreements with suppliers and sub-subcontractors to effectuate this provision. Nothing herein shall create any duty on the part of TriMark to accept the assignment of any purchase order or sub-subcontract hereunder.

Further, in its sole discretion and without notice to any guarantors, surety, or sureties, and without breaching this Subcontract, TriMark may terminate this Subcontract for its convenience upon the giving of written notice to Subcontractor. In such event, Subcontractor shall be entitled only to be paid all costs of the Work actually provided to the Project by Subcontractor hereunder, including reasonable and necessary costs of termination, but limited to and contingent upon TriMark receiving payment for costs of termination from the Prime Contractor or Owner. In no event shall Subcontractor be entitled to any other payments, compensation, or damages (including but not limited to consequential damages or loss of profits on portions of the Work not yet performed) in the event that TriMark terminates or is deemed to have terminated this Subcontract for its sole convenience.

21. Compliance

Subcontractor shall, at its own expense, obtain all necessary licenses and permits pertaining to the Work, including state or local contractor or subcontractor licenses, and shall comply with all statutes, ordinances, rules, regulations and orders of any governmental or quasi-governmental authority having jurisdiction over the Work or the performance thereof, or of the Project, or of Subcontractor, including, but not limited to, those relating to state or local contractor's or subcontractor's license, employment and wages, equal opportunity and discrimination, immigration, the environment, safety, and health.

Further, Subcontractor warrants that it is not sanctioned, suspended, debarred, or otherwise excluded from participating in U.S. federal, state, or local government contracting activities. Subcontractor shall notify TriMark if Subcontractor or any of Subcontractor's employees or third parties who are performing Subcontract Work to TriMark become ineligible, specially designated, blocked, sanctioned, suspended, debarred, or otherwise excluded from participating in U.S. federal, state, or local government contracting activities.

All Orders placed under this Subcontract Agreement shall be subject to, and shall be conditioned upon, Subcontractor's assent to the current TriMark Supplier Code of Conduct (available at www.trimarkusa.com/SiteMedia/SiteResources/Supplier-Code-of-Conduct-2022.pdf), which shall be presumed from acknowledgment of an Order, shipment of Goods or performance of Services, and/or acceptance of payment.

22. Miscellaneous

This Subcontract Agreement shall be binding on, and benefit, the parties hereto and their respective successors and assigns. This Subcontract Agreement supersedes any and all prior or oral written agreements with respect to the subject matter hereof. No provision of this Subcontract Agreement shall be waived by any act or omission of any party unless expressly waived in writing. Failure of TriMark to insist upon strict performance of any term or condition of this Subcontract Agreement or the Contract Documents, shall not be construed to be waiver of such performance or option, or of any other covenants or agreements on subsequent occasions, but the same shall be and remain in full force and effect. In the event any provision of this Subcontract Agreement, or any other document contemplated in this Agreement, shall be invalid, illegal or unenforceable, such provisions shall be severable from the rest of this Subcontract Agreement and the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby. All notices required to be given under this Subcontract Agreement shall be in writing and delivered personally or be sent to the other party by registered mail at the address at such place or places as either party may from time to time designate in writing. Time is of the essence for Subcontractor's performance of its duties. Subcontractor waives all subrogation rights against TriMark, its subcontractors and sub-subcontractors, the Prime Contractor and Owner for any loss or damage to the extent covered by insurance, except for any rights Subcontractor may have to the proceeds of such insurance.