

GERLOFF COMPANY, INC.  
SUBCONTRACTOR APPLICATION

DATE: \_\_\_\_\_ TAX ID # / SS #: \_\_\_\_\_

NAME: \_\_\_\_\_  
dba (if applicable): \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ ST \_\_\_\_\_ ZIP \_\_\_\_\_  
PHONE: ( ) \_\_\_\_\_ HOME: ( ) \_\_\_\_\_ FAX: ( ) \_\_\_\_\_  
E-MAIL: \_\_\_\_\_  
YEARS IN BUSINESS: \_\_\_\_\_ YEARS AT THIS ADDRESS: \_\_\_\_\_  
DRIVERS LICENSE NUMBER: \_\_\_\_\_ ST: \_\_\_\_\_  
BANK REFERENCE: \_\_\_\_\_  
ACCOUNT #: \_\_\_\_\_ OFFICER: \_\_\_\_\_

INSURANCE COVERAGE

GENERAL LIABILITY: \_\_\_\_\_ LIMITS: \_\_\_\_\_  
WORKERS COMPENSATION: \_\_\_\_\_ LIMITS: \_\_\_\_\_  
AUTOMOBILE: \_\_\_\_\_ LIMITS: \_\_\_\_\_

**CERTIFICATIES OF INSURANCE OR APPROPRIATE WAIVERS  
MUST BE ON FILE IN THIS OFFICE PRIOR TO ANY WORK STARTING.**

LIST LEAD SUPERVISORY PERSONNEL YOU WILL ASSIGN TO OUR JOB SITE.

<u>NAME</u>	<u>CELL#</u>	<u>VEHICLE MAKE &amp; LICENSE</u>
_____	_____	_____
_____	_____	_____

**TRADE CREDIT REFERENCES - MINIMUM 3 - ALL MUST BE IN LOCAL AREA**

NAME _____	CONTACT _____
ADDRESS _____	PHONE _____
CITY _____ ZIP _____	FAX _____
ANNUAL PURCHASE _____	
NAME _____	CONTACT _____
ADDRESS _____	PHONE _____
CITY _____ ZIP _____	FAX _____
ANNUAL PURCHASE _____	
NAME _____	CONTACT _____
ADDRESS _____	PHONE _____
CITY _____ ZIP _____	FAX _____
ANNUAL PURCHASE _____	

**BUSINESS REFERENCES - MINIMUM 3 JOBS IN LOCAL AREA**  
**WITHIN PAST 6 MONTHS:**

NAME _____	CONTACT _____
ADDRESS _____	PHONE _____
CITY _____ ZIP _____	FAX _____
NAME _____	CONTACT _____
ADDRESS _____	PHONE _____
CITY _____ ZIP _____	FAX _____
NAME _____	CONTACT _____
ADDRESS _____	PHONE _____
CITY _____ ZIP _____	FAX _____

.....

By signing this application, I certify all of the information is true and correct.

\_\_\_\_\_  
CONTRACTOR / OWNER

\_\_\_\_\_  
DATE

## **THE GERLOFF COMPANY, INC. SUBCONTRACTOR POLICIES**

### **WORK HOURS:**

Standard field operations for subcontractors are 8:00 am to 5:00 pm, Monday through Friday. However, there can be changes due to work conditions, such as emergency repairs. If a subcontractor would like to work on a project outside of these hours or days, it is permissible as long as they have prior permission from the project superintendent and the client.

### **DRUG AND ALCOHOL ABUSE POLICY:**

It has always been the policy of The Gerloff Company, Inc. (the “Company” or “Gerloff”) to promote excellence in the products and services offered to the industry. This policy requires that our personnel, equipment, subcontractors, and operating practices be consistent with high standards of health and safety. The abuse of drugs or alcohol by Company subcontractors and their employees is not in keeping with the Company’s objectives. With this in mind, the Company enforces the following policy:

### **STATEMENT OF PURPOSE AND SCOPE:**

The purpose of this policy is as follows:

1. To establish and maintain a safe, healthy workplace for all workers.
2. To reduce the number of accidental injuries to persons or property.
3. To safeguard the reputation of the Company, its subcontractors and workers.
4. To reduce absenteeism and tardiness and, thereby, improve productivity.
5. To comply with the Texas Workers’ Compensation Act.

### **POLICY CONCERNING DRUGS AND ALCOHOL:**

The Company strictly prohibits the use, possession, sale, transfer, purchase, or being under the influence of, any drugs or alcohol by employees, subcontractors or their employees at any time on Company premises or while on Company business.

Subcontractors or their employees shall not report for duty or be on Company property or projects while under the influence of drugs or alcohol, or have in their possession while on Company property or projects, any drugs or alcohol.

No prescribed drug will be brought on Company premises or job site by any person other than the one to whom it is prescribed. Such drugs will be used only in the manner, combination, and quantity prescribed.

The Company strictly prohibits the off-duty use of any drugs or alcohol that results in excessive absenteeism or tardiness, or which may result in accidents or poor workmanship.

## **DEFINITIONS:**

The following definitions apply to this policy:

1. “ALCOHOL” is any beverage that may be legally sold and consumed and has an alcohol content more than three percent (3%) by volume.
2. “DRUG” means any substance that can alter a person’s mood, perception, pain level, judgment, motor skills, or memory. Drug includes alcoholic beverages as well as inhalants and illegal drugs.
3. “PRESCRIBED DRUG” is any substance prescribed by a licensed medical practitioner.
4. “ILLEGAL DRUG” is any drug or controlled substance whose use, possession, sale transfer, or purchase is illegal.

## **CONSEQUENCES OF VIOLATIONS:**

Any subcontractor or their employees found to be in violation of this Drug and Alcohol Abuse policy, may be subject to the following actions:

1. Immediate termination of all current and future work with the contractor.
2. Permanent barring from all worksites and Gerloff premises.

The subcontractor is responsible for their employees’ conduct at all times and is required to enforce this policy.

## **SAFETY PRECAUTIONS:**

1. All subcontractors and their employees shall, at a minimum, comply with all applicable laws, codes, rules, regulations and requirements pertaining to the performance of its work, including the Federal Occupational Safety And Health Act (OSHA).
2. Prior to performing any work activities, the subcontractor shall evaluate the safety of the work in place and the working conditions in the area in which its employees and the subcontractors will work. The subcontractor will notify the Company verbally AND in writing of any unsafe work conditions or defective work in place.
3. It shall be the subcontractor’s responsibility to furnish and pay for special tools, equipment, and personal protection equipment necessary to comply with OSHA standards or other government regulations that pertain to the work.
4. All subcontractors are required to comply with the Gerloff Company, Inc.’s Subcontractor Safety Agreement.

## **INAPPROPRIATE CONDUCT:**

Any subcontractor or their employees that see any misconduct, which may be detrimental to the contractor or themselves, should report that occurrence to that project superintendent immediately. Failure to do so may result in suspension of current or future work.

## **CLOTHING:**

All subcontractors and their employees are required to wear appropriate clothing at all times while on the contractor's project. No bare back, tank tops, mesh shirts, or any article of clothing that displays lewd or vulgar illustrations or language will be permitted. If possible, uniforms are preferred.

## **ETHICS:**

Gerloff expects Subcontractor and its employees to avoid situations where personal interests could conflict, or appear to conflict, with duties and responsibilities or the interests of Gerloff. When faced with an actual or potential conflict of interest, Subcontractors should consult with Gerloff and inform Gerloff of any such conflict. Subcontractor will ensure that its employees are not involved in any decision or operation related to a conflict.

Gerloff is committed to protecting its revenue, property, information, and other assets from any attempt, either by the public, subcontractors, agents, or its own employees, to gain financial or other benefit by deceit. It is Gerloff's intent to fully investigate any suspected acts of fraud, misappropriation, or other similar irregularity.

If Subcontractor has knowledge of an occurrence of fraud, or has reason to suspect that a fraud has occurred, it must immediately notify Gerloff. Gerloff will pursue every reasonable effort, including court-ordered restitution, to obtain recovery of Gerloff's losses from the offender, or other appropriate sources.

Unlawful or unethical behavior is not tolerated, including soliciting, accepting, or paying bribes or other illicit payments for any purpose. Situations must be avoided where judgment might be influenced by, or appears to be influenced by, such unlawful or unethical behavior. Payment or acceptance of any "kickbacks" from a Subcontractor or other external party is prohibited.

Gerloff does not allow the acceptance or giving of gifts, favors, personal advantages, services payments, loans, or benefits of any kind, other than those of nominal value that can be made as a generally accepted business practice. If there is any doubt in specific cases, written approval from Gerloff should be requested.

Subcontractor's and Gerloff's books and records must reflect in reasonable detail, its transactions in a timely, fair and accurate manner to, among other things, permit the preparation of accurate financial statements in accordance with generally accepted accounting principles and maintain recorded accountability for assets and liabilities. The accuracy of asset and liability records must be maintained by comparing the records to the existing assets and liabilities at reasonable intervals, and taking appropriate action with respect to any differences.

All business transactions that Gerloff and Subcontractor participate in must be properly authorized, properly recorded, and supported by accurate documentation in reasonable detail. Subcontractor is expected to develop and enforce with its staff, policies and/or practices that are consistent with generally accepted business ethics principles and their associated requirements.

**BACKGROUND SCREENING:**

Pursuant to Section 145 of the Texas Civil Practices and Remedies Code and according to its terms, at its sole cost, all Subcontractors shall perform background screenings of all of its officers, employees, or prospective employees.

**I have read the Subcontractor's Policy of The Gerloff Company, Inc., and any questions I may have had were answered to my satisfaction. I understand that abiding by its provisions is a condition of my association with The Gerloff Company, Inc. I further acknowledge my understanding that the Company may add to or change these policies from time to time and that I will be appropriately informed.**

SUBCONTRACTOR: \_\_\_\_\_ DATE: \_\_\_\_\_

SUBCONTRACTOR'S PRINTED NAME: \_\_\_\_\_

**GERLOFF COMPANY, INC. SUBCONTRACTOR SAFETY AGREEMENT**

1. It is the subcontractor's responsibility to ensure that all its employees, including lower-tier subcontractors, are provided a safe and healthful work environment. The subcontractor will take all reasonable safety precautions in the performance of the work to protect its employees and other persons at the jobsite. The subcontractor and its employees will, at a minimum, comply with all applicable laws, codes, rules, regulations, and requirements pertaining to the performance of its work, including the Federal Occupational Safety and Health Act (OSHA).
2. Subcontractor agrees that, prior to performing any work activities, it will evaluate the safety of the work in place and the working conditions in the area in which its employees and subcontractors will work and will notify the Gerloff Company in writing of any unsafe conditions or defective work in place. Failure of subcontractor to notify the Gerloff Company of any unsafe conditions or defective work prior to beginning work shall establish subcontractor's acceptance of the work in place and safety of the working conditions related to its work.
3. The subcontractor should establish its own safety program implementing safety measures, policies, and standards conforming to those required or recommended by governmental agencies such as OSHA that have jurisdiction over the subcontractor.
4. The subcontractor is expected to enforce its own safety program for the scope of work in progress. In no way would the Gerloff Company release the subcontractor of their responsibilities concerning safety issues on the jobsite. It would be the subcontractor's responsibility to furnish and pay for special tools, equipment, and personal protective equipment necessary to comply with OSHA standards or other agency regulations that pertain to the work.
5. The subcontractor shall immediately stop any part of the work deemed to be unsafe by any entity/government agency until corrective measures have been taken.
6. The subcontractor acknowledges that to the extent that any entity/government agency identifies any safety defect or safety failure, such information or direction will not constitute interference by such entity/government agency with subcontractor's means and methods of providing and enforcing safe working practices for subcontractor's work.

**I have read the Gerloff Company Subcontract Safety Agreement, and any questions I may have had were answered to my satisfaction. My employees and I will comply with the applicable safety rules and regulations that pertain to my trade.**

SUBCONTRACTOR: \_\_\_\_\_ DATE: \_\_\_\_\_

SUBCONTRACTOR'S PRINTED NAME: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

**SUBCONTRACTOR AGREEMENT**

This Subcontractor Agreement (herein referred to as “Agreement”), made this day of \_\_\_\_\_, 20\_\_ (“Effective date”) by and between Gerloff Company, Inc., (hereinafter referred to as “Gerloff”), and \_\_\_\_\_, (hereinafter referred to as “Subcontractor”).

**I.  
SUBCONTRACT**

Subcontractor agrees to perform all services generally performed by the Subcontractor in Subcontractor’s line of business, including, but not limited to, the following:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Subcontractor further agrees to furnish all materials and perform all work described herein, all in accordance with the terms, conditions and specifications of the General Contract, Accepted Proposal or this Agreement.

**II.  
CONDITIONS TO AGREEMENT**

Gerloff’s obligation to retain the services of Subcontractor is conditioned upon the following: (a) Subcontractor is a legally formed and currently existing legal entity; (b) Subcontractor is duly licensed and in good standing in all required jurisdictions and with all appropriate and required licensing agencies as of the Effective Date; (c) there exists no other condition or circumstance that materially affects or impairs Subcontractor’s qualification or ability to provide the services under this Agreement; and (d) Subcontractor has fully complied with the obligations regarding insurance coverage set forth in this Agreement.

**III.  
DEFINITIONS**

1. “General Contract” - The Contract between Gerloff as prime contractor and the owner or owner’s representatives.
2. “Accepted Proposal” - The Gerloff proposal as to the work to be done and the amount that the work will cost that has been agreed to by the owner or owner’s representative.
3. “Allied Operations” - Operations by Gerloff and all other subcontractors that are being performed at the specific job site.



4. "Services" - The work to be performed by Subcontractor as set forth in one or multiple Statements of Work.
5. "Deliverables" - All Documentation and other materials developed for or provided to Gerloff Company, Inc. by Subcontractor through the performance of Services under this Agreement and any Statement of Work issued hereunder.

**IV.**  
**PRECEDENCE OF DOCUMENTS**

In the event of a conflict between this Agreement and any other document, this Agreement will control, except for provisions in those other documents, which by their express terms, are intended to supersede the corresponding provision in this Agreement

**V.**  
**INDEPENDENT SUBCONTRACTOR STATUS**

Gerloff and the Subcontractor intend that an independent contractor relationship will be created by this Agreement. Subject to the terms of this Agreement, Subcontractor shall have complete discretion in the methods and techniques used in rendering services to Gerloff, provided that no means or methods used by Subcontractor to provide the services shall be in violation of any applicable statute or regulation. Gerloff shall, however, be entitled to exercise general power of supervision and control over the results of the services performed by Subcontractor to assure satisfactory performance, including the right to inspect, the right to stop performance of the services, the right to make suggestions or recommendations as to the details of the Services, and the right to propose modifications to the Services.

Subcontractor is not an agent or employee of Gerloff for any purpose, and the employees of Subcontractor are not entitled to any of the benefits that Gerloff provides for Gerloff's employees. Nothing contained in this Agreement shall be construed to create an exclusive relationship between Gerloff and Subcontractor. Subcontractor retains the right to perform work for others during the term of this Agreement. Gerloff retains the right to cause work of the same or a different kind to be performed by its own personnel or other Subcontractor during the term of this Agreement

**VI.**  
**ASSIGNMENT AND REMOVAL OF PERSONNEL**

Gerloff may request that Subcontractor remove, or cause to be removed, any of Subcontractor's personnel from the premises of Gerloff for any reason, and Subcontractor shall immediately comply. Gerloff may interview personnel Contractor assigns to perform Services for Gerloff. If Gerloff reasonably determines that such personnel are not appropriate for the services assigned based on his or her specific or general skills, background and/or experience, Subcontractor shall use its best efforts to assign other qualified personnel. If qualified personnel are not reasonably available, Gerloff shall have the right to immediately terminate the Agreement. Further, Gerloff may require that Subcontractor's personnel travel to other cities in order to perform the services to the extent set forth in the Statement of Work. In such event, Subcontractor shall provide personnel who can undertake such travel without restrictions, and Contractor shall be responsible

for taking care of any issues related to the travel restrictions, financially or otherwise, that may arise with respect to Subcontractor's personnel.

**VII.**  
**CERTIFICATION AND TRAINING**

Subcontractor shall be responsible for any and all costs and training associated with obtaining and maintaining adequate certification and skills required for its personnel to perform the services.

**VIII.**  
**RECORDS**

Subcontractor shall maintain complete and accurate books of account and records relating to the performance of the services and work performed and in support of all charges. Subcontractor shall preserve such records for the later of (a) two (2) years after completion of the Services, (b) while any dispute between the parties as to the services remains unresolved, or (c) for such longer period of time as may be required by applicable law. All such records shall be open for review or audit by Gerloff or by an accounting firm or third party selected and paid by Gerloff at reasonable times and on reasonable notice. Such records shall include payroll records, job cards, attendance cards and job summaries. In addition, Gerloff shall have the right, upon request, to review and audit documents relating to the general financial health of Subcontractor, including without limitation, income statements, balance sheets, statements of cash flow, and other such financial documents.

**IX.**  
**COMMENCEMENT DATE**

Subcontractor agrees to start performance of the work awarded them within a reasonable length of time after notification by Gerloff. Subcontractor agrees to use due diligence in the completion of such work, and to complete such work in accordance with the program of Allied Operations of Gerloff and other Subcontractors, if any. Subcontractor has sole control of the manner and means of performing the work specified in the General Contract or Accepted Proposal and shall complete it according to its own means and methods of work.

**X.**  
**FAILURE OF PERFORMANCE**

If the Subcontractor, at any time, fails in the performance of the terms, stipulations and agreements of the General Contract, Accepted Proposal, this Subcontractor's Agreement, or fails to use due diligence in the work awarded them, so as to interfere with or in any way impede Allied Operations of Gerloff, and other Subcontractors, this will constitute a failure of performance. Failure of performance will rest solely in the judgment of Gerloff. Gerloff will provide notice to anyone representing the Subcontractor at the job site or Subcontractor's place of business. Such notice will state the nature of the violation of the Agreement or contracts. If the failure is continuing for two (2) days after notice to the Subcontractor, Gerloff may proceed thereupon to complete the work under the terms of the General Contract, Accepted Proposal, or Subcontractor Agreement at the cost and expense of Subcontractor. Gerloff may re-sublet the work, and any monies due the Subcontractor on that project will be held until the Subcontractor's

portion of the project has been completed by Gerloff, or a new Subcontractor. These monies will be paid to Gerloff or the new Subcontractor for the work done.

In addition to any material failure of Subcontractor to carry out its obligations under this Agreement, the following events shall constitute a breach by Subcontractor under this Agreement: (a) if Gerloff determines in its sole discretion that the Services or any Deliverables are not of sufficient quality; (b) if Subcontractor breaches any of the terms hereof; (c) if Gerloff determines in its sole discretion that there is a substantial adverse change in the business or financial condition of Subcontractor, including without limitation, the filing by Subcontractor of a voluntary petition in bankruptcy or the filing against Subcontractor of an involuntary petition in bankruptcy; or (d) if Gerloff determines in its sole discretion that Subcontractor has failed to make adequate plans to eliminate foreseeable risks to its ongoing performance of this Agreement.

Subcontractor further agrees that if Subcontractor should delay the material progress of the work so as to create any damage or cost overage for which Gerloff shall become liable, then the Subcontractor shall indemnify Gerloff for the amount of any damages so caused.

## **XI. REMEDIES**

Upon Subcontractor's breach of this Agreement, Gerloff shall, at its option, be entitled to one or more of the following remedies: (a) Subcontractor will provide Gerloff with reasonable remedial services upon demand of Gerloff and (b) set-off against any amounts owed to or held by Subcontractor, any costs incurred in Gerloff's exercise of its rights under this Agreement prior to or as a result of Subcontractor's breach. The remedies reserved in this Agreement shall be cumulative and in addition to any other or further remedies provided by law or equity and may be exercised separately or concurrently without waiver of any other remedies. Resort to any remedy by Gerloff as provided in this Agreement or otherwise, shall not be deemed an election of remedies or a waiver of any breach or remedies

## **XII. TERMINATION**

*Termination of Agreement.* Gerloff may terminate this Agreement with or without cause upon written notice to Subcontractor. Notwithstanding the termination of this Agreement, the rights granted under herein shall continue in effect in accordance with their terms.

*Obligations of Subcontractor Upon Termination of Agreement.* Upon receipt of notice of such termination, Subcontractor shall, unless otherwise directed by Gerloff, promptly terminate all services in progress, inform Gerloff of the extent to which performance has been completed through such date, and collect and deliver to Gerloff whatever Work Product, Deliverables, and other materials produced in the performance of the Services in whatever form as then exists in a manner prescribed by Gerloff.

**XIII.**  
**NEGATION OF JOINT VENTURE OR PARTNERSHIP**

In entering into and complying with Agreement, Subcontractor is at all times performing as an independent contractor. Nothing in this Agreement shall constitute or be construed as a creation of a partnership or joint venture between Subcontractor and Gerloff, or their successors or assigns. Furthermore, nothing in this Agreement shall create an employee/employer relationship between Gerloff and any of Subcontractor's employees.

**XIV.**  
**CONSIDERATION**

Gerloff shall pay the Subcontractor for performance of the work described within the General Contract, Accepted Proposal or Subcontractor's Agreement, subject to additions and deductions agreed upon in writing by the Subcontractor and Gerloff.

**XV.**  
**TERMS OF PAYMENT**

Subcontractor will be paid weekly. On certain jobs at Gerloff's discretion payments will consist of ninety percent (90%) of all labor and materials which have been performed by the Subcontractor on the job site and for which payment has been made by Owner to Gerloff. Gerloff shall retain the remaining ten (10%) percent until thirty (30) days after work has been fully completed and delivered and accepted by the Owner. This provision is limited to the work done by the Subcontractor. All weekly draws or invoices are to be turned in to Gerloff's office by 5:00 p.m. each Wednesday and payment will be made on Friday of the following week. Invoices are to be on printed letterhead, handwritten will not be accepted. Invoices are to be dropped off in person to the Gerloff Receptionist or faxed, mailed or emailed to the Gerloff Accounting Department. Invoices submitted by any other means will not be accepted.

All monthly draws will be turned in no later than the 25th day of each month and payable by the 10th day of the following month. Payment will only be approved for the percentage of work completed on the turn in date. All Subcontractor's draws are subject to the fund availability.

Subcontractor agrees that all invoices for work performed shall be submitted within thirty (30) days of the completion of the work. Subcontractor agrees and acknowledges that invoices submitted by subcontractor after thirty days from completion of the work will not be paid, unless otherwise agreed by contractor.

If Gerloff disputes, in good faith, any amount claimed by Subcontractor as payable to Subcontractor by Gerloff pursuant to this Agreement, Gerloff shall pay Subcontractor the undisputed portion and shall give Subcontractor notice of the disputed amount, specifying the basis of the dispute in reasonable detail. Upon resolution of such dispute, any portion of the disputed amount determined to have been payable shall be disbursed to Subcontractor. During the pendency of any dispute, Subcontractor is expressly obligated to continue performing its obligations pursuant to this Agreement.

**XVI.**  
**PURCHASE ORDER NUMBERS**

In order for the Subcontractor to be paid, it is mandatory for all invoices to have a purchase order number written or typed on each invoice. Failure to get a purchase order number before starting the job or failure to write the purchase order number on your invoice will mean a delay of payment or non-payment. Work and material must be complete and inspected by the Superintendent prior to the Subcontractor's invoice being sent to Gerloff's office.

**XVII.**  
**INDEMNIFICATION**

Subcontractor shall indemnify, hold harmless, and defend Gerloff from and against any and all costs, expenses (including reasonable counsel fees), liabilities, losses, damages, suits, actions, fines, penalties, claims, or demands of any kind and asserted by or on behalf of any person or governmental authority, arising out of or in any way connected with the Subcontractor's work, and Gerloff shall not be liable to Subcontractor on account of (1) any failure by Subcontractor to perform any of the agreements, terms, covenants, or conditions of the General Contract, Accepted Proposal, or this Subcontractor Agreement required to be performed by Subcontractor, (2) any failure by Subcontractor to comply with any statutes, ordinances, regulations, or orders of any governmental authority, or (3) any accident, death or personal injury, or damage to or loss or theft of property, which shall occur performing under the General Contract, Accepted Proposal, or the Subcontractor's Agreement regardless of whether such liability, claims, demands, damages, and costs were caused in whole or part by Gerloff or the concurrent negligence of Gerloff or any other person or entity.

**XVIII.**  
**WARRANTY**

Subcontractor warrants all work performed by Subcontractor for a minimum of one (1) year from date of completion of the work. Subcontractor shall satisfactorily remedy any and all deficiencies or problems within three (3) days of written notice from Gerloff.

Subcontractor makes the following representations and warranties for the benefit of Gerloff, as a present and ongoing affirmation of facts in existence at all times when this Agreement issued hereunder is in effect:

- a) That it is a duly formed and validly existing entity organized under the laws of the state identified at the outset of this Agreement and that it is vested with all the requisite authority to enter into and perform its obligations under this Agreement.
- b) That the services shall be completed in a workmanlike and professional manner by personnel having a level of skill and training commensurate with their responsibilities.
- c) That it has the requisite financial strength, procedures, equipment, processes (including computer information systems), and facilities to provide and perform

all of the services to be provided and performed under this Agreement, in strict conformity with the terms and conditions hereof.

## **XIX.** **INSURANCE**

Subcontractor shall provide and furnish all insurance coverage relating to Subcontractor's portion of the General Contract/Accepted Proposal. This coverage shall include, but is not limited, to worker's compensation, general liability, and automobile insurance. Evidence of such insurance coverage is to be furnished to Gerloff when an application is submitted by a Subcontractor and thereafter, once a year.

Prior to commencement of the Subcontract Work, Subcontractor shall deliver to Contractor (i) the insurance certificates specified in Exhibit 1 attached hereto and incorporated herein. If Subcontractor subcontracts any Subcontract Work to a third party, Subcontractor shall also require that such third party procure and maintain the insurance policies meeting the requirements set forth herein, including, without limitation, the naming of Contractor and other designated entities as additional insured's including products/completed operations on all policies, except worker's compensation. Subcontractor waives, and shall require all subcontractors to waive, all rights against Contractor and Owner, their officers, directors, shareholders, employees, agents, surety and all parties whom Contractor is required to insure pursuant to the terms of the Contract Documents, for recovery of damage to the extent these damages are covered by the worker's compensation and employer's liability, or commercial general liability insurance, obtained by the Subcontractor pursuant to the terms of the Agreement or of the Contract Documents. Subcontractor waives, and shall require all sub-contractors to waive, all rights against Contractor and Owner, their officers, directors, shareholders, employees, agents, surety and all parties whom Contractor is required to insure pursuant to the terms of the Contract Documents, for recovery of damage to the extent the damages are covered by the worker's compensation and employer's liability, automobile liability insurance, or commercial general liability insurance.

An approved waiver for the absence of worker's compensation insurance must be on file with Gerloff. Subcontractor agrees to waive all right of subrogation as against Gerloff and will indemnify Gerloff for same.

Subcontractor shall immediately inform Gerloff of any claim threatened or initiated against Subcontractor or initiated by Subcontractor or any employee or subcontractor of Subcontractor related in any way to the performance of the services, including, but not limited to, any claim for compensation for injury to persons or property.

## **XX.** **TAXES**

Any sales or value added tax properly imposed by any jurisdiction in connection with the services, including any deliverables or other tangible personal property provided by Subcontractor as part of the Services, shall be the responsibility of Subcontractor, and the

amount of such taxes shall be deemed to be included in the stated cost of the services. Any such taxes shall be remitted to the applicable authorities by Subcontractor as and when due. If the applicable law requires that such taxes be remitted to the taxing authority by Gerloff, then Gerloff shall be entitled to withhold the amount of any such taxes so due from sums owed to Subcontractor hereunder.

**XXI.**  
**BOUND TO OWNER**

Subcontractor shall be bound to Gerloff in the same manner as Gerloff is bound to the Owner to the extent of the portion of the work covered under the General Contract/Accepted Proposal.

**XXII.**  
**POLICIES**

Subcontractor shall abide by all Gerloff policies, including those set out in this agreement as well as those included in the attached , **GERLOFF COMPANY, INC.SUBCONTRACTOR POLICIES** and **GERLOFF COMPANY, INC. SUBCONTRACTOR SAFETY AGREEMENT.**

**XXIII.**  
**WAIVERS**

Subcontractor must sign a lien waiver in order to receive payment for work that has been completed. Also, the waiver by either party of any breach or violation of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach or violation hereof. The failure of either party to act in a breach of this Agreement by the other shall not be deemed a waiver of such breach or a waiver of future breaches, unless such waiver shall be in writing and signed by the party against whom enforcement is sought

**XXIV.**  
**NOTICE**

Any legal notices permitted or required by this Agreement shall be deemed made on the day personally delivered in writing or mailed by certified or registered mail, postage paid, to the other party at the address set forth below or to such other persons and address as either party may designate in writing:

If to Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

If to Gerloff: Gerloff Company, Inc.  
14955 Bulverde Road  
San Antonio, Texas 78247  
Attention: Dustin Gerloff or Derek Gerloff

**XXV.**  
**GOVERNING LAW**

It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas. The venue for any litigation arising out of this agreement or related to the work performed by the subcontractor shall be Bexar County, Texas.

**XXVI.**  
**COMPLIANCE WITH LAWS AND POLICIES**

Subcontractor agrees to comply with all applicable federal, state and local laws, statutes, executive orders, rules, regulations, and ordinances in its performance of the Services provided for under this Agreement and the conduct of its business. Subcontractor shall establish appropriate procedures and controls so that the Services will not be performed using any alien who is not legally eligible for such employment under applicable immigration laws. Subcontractor acknowledges and agrees that it shall be responsible for complying with the Immigration Reform and Control Act with respect to its employees. If Gerloff becomes aware of any information, which, based upon a reasonable interpretation of such events or information, supports the conclusion that Contractor may be out of compliance with applicable immigration laws, Subcontractor shall, at the option of Gerloff: (a) provide written certification that Subcontractor is in compliance with all applicable immigration laws; and/or (b) upon prior notice, allow for an independent auditor, selected and paid for by Gerloff, to conduct a full review and/or audit of records relating to the Immigration Reform and Control Act. If the audit discloses one or more failures of Subcontractor's compliance with the Immigration Reform and Control Act, Subcontractor agrees to assume responsibility for all costs associated with the audit. Furthermore, such disclosure, or Subcontractor's failure to otherwise adhere to the terms of this provision may, at Gerloff sole discretion, be deemed a material breach and be grounds for immediate termination of this Agreement and any Statement of Work. Subcontractor agrees to indemnify and hold Gerloff harmless from and against any and all claims, demands, and actions and any liabilities, damages, or expenses resulting there from, including court costs and reasonable attorney fees, arising out of or relating to noncompliance with this provision by Subcontractor, its permitted subcontractor, or its respective agents or representatives.

Subcontractor's employees and agents shall comply with all laws and policies of Gerloff while on the premises of Gerloff. Subcontractor shall provide its employees and agents with adequate orientation (subject to Gerloff's review and approval) to introduce its employees and agents to the role and function of Subcontractor and its employees and agents assigned to perform the Services, and to explain applicable policies, rules, laws and regulations. Such policies may include, without limitation, a requirement that Subcontractor, its employees, and/or any approved subcontractors, execute and deliver to Gerloff, written documentation confirming that Subcontractor and/or its employees and/or any approved subcontractors have complied with all applicable policies of Gerloff, and that Subcontractor is fulfilling its legal obligations with respect to its employees and approved subcontractors.



**XXVII.**  
**LEGAL ACTION**

If any legal action is instituted to enforce this Agreement, or any part of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs from the other party.

Subject to either party's right to seek injunctive relief, in the event of a dispute arising from this Agreement, the parties shall endeavor in good faith to settle the dispute through negotiation. If the dispute cannot be resolved through negotiation, or another mutually agreeable dispute resolution mechanism, the parties shall submit the dispute to non-binding mediation. If mediation fails to resolve the dispute, the parties agree to submit the matter in dispute to binding arbitration. Written notice of the intent to submit a matter to arbitration shall be given by the party requesting same. The arbitration proceedings shall be conducted in accordance with the rules promulgated by the American Arbitration Association or, if the parties so agree, the relevant rules of another arbitration entity or organization agreed upon by the parties. In any case, regardless of any rules of the selected arbitration organization to the contrary, only one (1) arbitrator shall be used to decide the outcome of the arbitration. Such arbitration shall be held in San Antonio, Texas, or if the parties agree upon another location, that other location. The prevailing party shall be entitled to an award of attorneys' fees. The arbitration shall be governed by Texas law and judgment upon the arbitrator's award may be entered in any court having jurisdiction over such matter.

**XXVIII.**  
**ENTIRE AGREEMENT**

This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of the Services by Subcontractor for Gerloff and contains all the covenants and agreements between the parties with respect to the rendering of such Services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

**XXIX.**  
**MODIFICATION AGREEMENT**

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing, signed by each party or an authorized representative of each party.

**XXX.**  
**SECTION HEADINGS**

The titles to the sections of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

**XXXI.**  
**SEVERABILITY**

If any of the provisions of this Agreement shall be held to be invalid, void or unenforceable, the remaining provisions hereof shall in no way be affected or impaired, and such remaining provisions shall remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

In witness whereof, the Parties hereto have duly executed this Agreement on the date indicated in the first paragraph.

**SUBCONTRACTOR:**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**GERLOFF COMPANY, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**Exhibit I****Subcontractor Insurance Requirement Policy**

It is an absolute requirement that each subcontractor have general liability insurance before that subcontractor performs any work on one of our jobs.

That general liability insurance must meet our limit requirements and we must have a certificate of insurance issued to us by the subcontractor's broker or agent that not only identifies us as a **certificate holder** but also names Gerloff Company, Inc. as an **Additional Insured** for premises operations and products/completed operations coverage under the subcontractor's General Liability policy.

The MINIMUM limits of coverage for each subcontractor under the General Liability policy are as follows:

\$500,000	Each Occurrence – Bodily Injury and Property Damage
\$500,000	General Aggregate for all Coverage
\$500,000	Products and Completed Operations Aggregate

Higher risk operations subcontractors should have greater limits. These operations include, but are not limited to, ROOFING, ELEVATOR, HVAC, PLUMBING, ELECTRICAL, EXCAVATION, HAZARDOUS MATERIAL. The limits for higher risk operations will be determined as they present themselves. Suggested limits could vary and possibly match our own General Liability policy limits, which are:

\$1,000,000	Each Occurrence – Bodily Injury and Property Damage
\$2,000,000	General Aggregate for all Coverage
\$2,000,000	Products and Completed Operations Aggregate

**ASBESTOS REMOVAL & LEAD PAINT ABATEMENT:**

General liability insurance must meet our limit requirements and we must have a certificate of insurance issued to us by the subcontractor's broker or agent that not only identifies us as a certificate holder with the following statement “ **Asbestos removal work is included under the General Liability Coverage**” but also names Gerloff Company, Inc. as an Additional Insured under the subcontractor's General Liability policy.

The MINIMUM limits of coverage for Asbestos Removal and Lead Paint Abatement Subcontractors under the General Liability policy are as follows:

\$1,000,000	Each Occurrence – Bodily Injury and Property Damage
\$2,000,000	General Aggregate for all Coverage
\$2,000,000	Products and Completed Operations Aggregate

Statutory Worker's Compensation and Employer's Liability Insurance, with a Waiver of Subrogation affording coverage under the Worker's compensation laws of the state in which the work will be performed, with Employer's Liability Insurance having limits of \$500,000 for injury by accident and \$500,000 for injury by disease.

Automobile Liability Insurance, naming Contractor as an Additional Insured, with a Waiver of Subrogation on Subcontractor's Automobile Liability Insurance, at no less than \$500,000 per occurrence Combine Single Limit for injury or property damage.

Any checks in payment to a subcontractor who fails to meet our General Liability insurance requirements, will be withheld until we are provided with a proper certificate of insurance.

Contact information for subcontractor's insurance broker or agent:

Mailing Address	Gerloff Company, Inc. 14955 Bulverde Road San Antonio, Texas 78247 Attn: Acct Payable, Subcontractor Compliance
Voice Telephone	(210) 490-2777 Ann Walleck – Ext 1302 – awalleck@gerloffinc.com Amberleigh Davis – Ext. 1304 – adavis@gerloffinc.com Dwayne McElroy – Ext 1301 – dmcelroy@gerloffinc.com
Fax (Accounting)	(210) 892-2770 Attn: Acct Payable, Subcontractor Compliance
Email (invoices)	invoices@gerloffinc.com

# **Gerloff Company, Inc.**

## **Subcontractor Background Agreement**

The reason you are receiving this Agreement is due to you as a Subcontractor for Gerloff Company, Inc. (Gerloff) have previously or are currently or may in the future perform work for Gerloff at a Property Owner's or Client's property (Job Site) connected with **Crawford Contractor Connection and Sedgwick Repair Solutions. Crawford Contractor Connection and Sedgwick Repair Solutions** is a client of Gerloff and hereunder is referred to as Client. As a new requirement of Client, Gerloff is required to perform an annual background check on Gerloff Employees and Subcontractors. Subcontractor includes the principal and/or owner(s). Annual background check must also be performed for any employee of the Subcontractor who has access to data or information related to work performed along with any employee who performs work for Gerloff at a Client Job Site. If an employee of Subcontractor will *not* have access to data or information related to work performed or an employee of Subcontractor will *not* perform work for Gerloff at a Client Job Site, said employee(s) will not require a background check.

In addition to performing a background check, any individual who performs work for Gerloff at a Client Job Site is required to wear a name badge. The name badge must contain Subcontractor company name along with the name and photo of individual. The name badge *must* be worn at all times when working for Gerloff at a Client Job Site.

The cost of background check and name badge will be the responsibility of Gerloff Company, Inc. The Subcontractor is required to adhere and remain in compliance with this Agreement at all time. Subcontractor is required to update Gerloff regarding any change (hiring and/or termination) in employment for an employee under this Agreement. When a Subcontractor terminates an employee under this Agreement, Subcontractor is required to notify Gerloff of termination within 24 hours of termination. If, at any time, Subcontractor has knowledge or becomes aware of situation that is in violation of this Agreement, Subcontractor and/or employee of Subcontractor will no longer be permitted to perform work for Gerloff at a Client Job Site and/or have access to data or information related to work performed. If an individual has lost and/or needs to replace a name badge, Subcontractor acknowledges, and agrees, to remit payment of \$20.00 to Gerloff Company, Inc. for each name badge replacement. When a Subcontractor hires an employee under this Agreement, Subcontractor must submit signed approved authorization for background check along with a digital color photograph of individual (from chest up) to: [background@gerloffinc.com](mailto:background@gerloffinc.com).

Each year, Gerloff is required to perform a recertification regarding its employees and Subcontractors. During this time, Subcontractor and employee(s) of Subcontractor will be required to successfully pass the background check. If Subcontractor and/or employee(s) do not successfully pass the background check, said individual will no longer be permitted to perform work for Gerloff at a Client Job Site and/or have access to data or information related to work performed.

**No Subcontractor or employee of Subcontractor can perform work for Gerloff at a Client Job Site until the individual has successfully completed and passed a background check and a name badge is provided. A Subcontractor and/or employee of Subcontractor will not be permitted to perform work for Gerloff at a Client Job Site and/or have access to data or information related to work performed, if, in the past seven(7) years, individual is convicted of a state or federal felony or misdemeanor involving (a) intentional injury or loss, to a person or property or (b) while under the influence of alcohol or other substances, and any pending deferred adjudications with respect to any of the above, as allowed by law.**

By signing this agreement, Subcontractor agrees they have read and understand this agreement and agree to adhere and comply. If, at any time, Subcontractor fails to meet requirements of this agreement, Gerloff reserves the right to withhold payment to Subcontractor until said Subcontractor is in compliance.

Date: \_\_\_\_\_

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Printed Name of Individual

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

Protocol: Contractor Connection  
Sedwick Repair Solutions

Limited release form:

Gerloff Company, Inc.  
San Antonio, TX

Applicant, Contractor or Employee Release

In connection with my employment, application process for employment, contract for services or Incidental review I understand that consumer or investigative consumer reports, which may contain public record information, may be used and requested by BestHire, LLC, **and its agents**, made on me including address searches criminal records. Further I understand that you will be requesting information from various Federal, state, local and other agencies which contain my past activities. I hereby authorize without reservation, any party or agency contacted by this employer to furnish the above-mentioned information. I have the right to make a request of BestHire, LLC, of Vernon, CT, USA, Telephone: 800-539-0055, upon proper identification the payment of any necessary authorized fees for the information in its files on me at the time of my request. I further authorize ongoing procurement of the above-mentioned reports, at any time, during my active relationship. A facsimile of this original release is to be considered same and to be treated like the original.

Employer: Does this person have access to any personal customer information other than the address of the work site:  
Yes or No? \_\_\_\_\_ If Yes, List 10 years of employment history, if No, 5 years of employment history below.

First name: \_\_\_\_\_ Middle: \_\_\_\_\_

Last name: \_\_\_\_\_

Employer: \_\_\_\_\_

Company Driver: Yes or No? \_\_\_\_\_ Required: Driver's License \_\_\_\_\_ State: \_\_\_\_\_

Do you have any other former or last name(s)? \_\_\_\_\_

Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

US Social Security Number: \_\_\_\_\_

Birthdate: Month: \_\_\_\_\_ Day: \_\_\_\_\_ Year: \_\_\_\_\_ Race: \_\_\_\_\_ Gender: \_\_\_\_\_

What other states have you lived or worked in the last 7 years? \_\_\_\_\_

Where has this person been employed for the last 5 or 10 years? (Provide Employer, Supervisor, Tel. Addresses)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Does the applicant wish to receive a copy of this report when completed? **YES** or **NO** \_\_\_\_\_

**Note: Employee ID Badges will only be issued to those that pass the "Level One On-Site Verification".**

Applicant Signature  \_\_\_\_\_ Date: \_\_\_\_\_

Employer Question: Is this Applicant A) Owner B) Management C) Technician D) Subcontractor?  \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

*(Employer has verified identification by US Government photo ID. Example: US Driver's license; Majority ID, or US Passport. Employer also confirms an I-9 is on file.)*

BestHire, LLC Vernon, CT 860-872-0055 // Fax 860-870-8005 Employer will maintain this release, on file, a minimum of 300 days.

Release expires **Oct 2021**

**DO NOT SEND THIS AGREEMENT TO TDI-DWC**

If you are not certain whether all parties meet the requirements for entering into this agreement, you may wish to consult an attorney.

Texas Workers' Compensation Act, Texas Labor Code, Section 406.141(2) defines "independent contractor" as follows: (2) "Independent contractor" means a person who contracts to perform work or provide a service for the benefit of another and who: (A) is paid by the job, not by the hour or some other time-measured basis; (B) is free to hire as many helpers as he desires and to determine what each helper will be paid; and (C) is free to work for other contractors, or to send helpers to work for other contractors, while under contract to the hiring employer.

CHECK  BOX OF STATEMENT THAT APPLIES

**JOINT AGREEMENT TO AFFIRM INDEPENDENT RELATIONSHIP FOR CERTAIN BUILDING AND CONSTRUCTION WORKERS**

Notice of Declaration

The undersigned Hiring Contractor and the undersigned Independent Contractor hereby declare that the Independent Contractor meets the qualifications of an Independent Contractor under Texas Workers' Compensation Act, Texas Labor Code, Section 406.141, that the Independent Contractor is not an employee of the Hiring Contractor, and that:

- (A) the Independent Contractor and the Independent Contractor's employees shall not be entitled to workers' compensation coverage from the Hiring Contractor; and
- (B) the Hiring Contractor's workers' compensation insurance carrier shall not require premiums to be paid by the Hiring Contractor for coverage of the Independent Contractor or the Independent Contractor's employees, helpers, or subcontractors.

THIS AGREEMENT APPLIES TO ALL HIRING AGREEMENTS EXECUTED BY THE HIRING CONTRACTOR AND THE INDEPENDENT CONTRACTOR UNTIL THE FIRST ANNIVERSARY OF THE DATE THE AGREEMENT WAS FILED WITH THE HIRING CONTRACTOR'S WORKERS' COMPENSATION INSURANCE CARRIER, UNLESS A SUBSEQUENT HIRING AGREEMENT EXPRESSLY STATES THE AGREEMENT DOES NOT APPLY. IN THE EVENT THAT A HIRING AGREEMENT TO WHICH THIS AGREEMENT DOES NOT APPLY IS MADE, THE HIRING CONTRACTOR AND INDEPENDENT CONTRACTOR SHALL SO NOTIFY THE TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION AND THE HIRING CONTRACTOR'S WORKERS' COMPENSATION INSURANCE CARRIER (IF ANY) IN WRITING WITHIN 10 DAYS AFTER THE NON-APPLYING AGREEMENT IS MADE. ONCE THIS AGREEMENT IS SIGNED, THE SUBCONTRACTOR AND THE SUBCONTRACTOR'S EMPLOYEES SHALL NOT BE ENTITLED TO WORKERS' COMPENSATION COVERAGE FROM THE HIRING CONTRACTOR UNLESS A SUBSEQUENT WRITTEN AGREEMENT IS EXECUTED, AND FILED ACCORDING TO DIVISION RULES, EXPRESSLY STATING THAT THIS AGREEMENT DOES NOT APPLY.

Texas Labor Code, Texas Workers' Compensation Act, Section 406.145.

**AGREEMENT TO ESTABLISH EMPLOYER-EMPLOYEE RELATIONSHIP FOR CERTAIN BUILDING AND CONSTRUCTION WORKERS**

Notice of Agreement

The undersigned Hiring Contractor and the undersigned Independent Contractor hereby agree that the Hiring Contractor  will withhold  will not withhold the cost of workers' compensation insurance coverage from the Independent Contractor's contract price and that the Hiring Contractor will purchase workers' compensation insurance coverage for the Independent Contractor and the Independent Contractor's employees. Once this agreement is signed, for the purpose of providing workers' compensation insurance coverage, the Hiring Contractor will be the employer of the Independent Contractor and the Independent Contractor's employees. This agreement makes the Hiring Contractor the employer of the Independent Contractor and the Independent Contractor's employees only for the purposes of workers' compensation laws of Texas and for no other purpose.

TERM (DATES) OF AGREEMENT: FROM: \_\_\_\_\_  
TO: \_\_\_\_\_

LOCATION OF EACH AFFECTED JOB SITE (OR STATE WHETHER THIS IS A BLANKET AGREEMENT):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ESTIMATED NUMBER OF EMPLOYEES AFFECTED: \_\_\_\_\_

THIS AGREEMENT SHALL TAKE EFFECT NO SOONER THAN THE DATE IT IS SIGNED.

Texas Labor Code, Texas Workers' Compensation Act, Section 406.144.

**Hiring Contractor's Affirmation**

If the Hiring Contractor's workers' compensation carrier changes during the effective period of coverage, it is advisable for the Hiring Contractor to file this form with the new insurance carrier.

74-2544085

Federal Tax I.D. Number

\_\_\_\_\_  
Signature of Hiring Contractor Date  
**Gerloff Company, Inc.**  
Printed Name of the Hiring Contractor

14955 Bulverde Rd  
Address (Street)  
San Antonio, TX 78247  
Address (City, State, Zip)

**Independent Contractor's Affirmation**

Federal Tax I.D. Number

\_\_\_\_\_  
Signature of Independent Contractor Date  
Printed Name of the Independent Contractor

\_\_\_\_\_  
Address (Street)  
\_\_\_\_\_  
Address (City, State, Zip)

**The Hiring Contractor must retain the original.** A legible copy of this agreement must be filed with the hiring contractor's workers' compensation insurance carrier within 10 days of the date of execution. An agreement is not considered filed if it is illegible or incomplete. The Independent Contractor should also retain a copy of the agreement.







By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or “doing business as” (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity’s name as shown on the entity’s tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a “disregarded entity.” See Regulations section 301.7701-2(c)(2)(iii). Enter the owner’s name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner’s name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity’s name on line 2, “Business name/disregarded entity name.” If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys’ fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.**

You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.**

You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

\*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.