**GENERAL CONTRACT AGREEMENT**

## This General Contract Agreement (“Subcontract”) is made this \_\_\_\_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20 \_\_\_ between \_\_\_\_\_ School District (“District”) and \_\_\_\_\_\_\_\_\_\_\_\_\_ (“Contractor”). The parties agree as follows:

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## 1. **Independent Contractor Status:** It is the intention of both parties that Contractor is an independent contractor and not a District agent or employee. Contractor agrees to furnish materials, equipment, tools and service necessary for the work described in this Agreement.

2. **Scope of Work**: The materials provided and work performed are specified in the attached Scope of Work. (Exhibit 1) The scope of work shall not be revised, amended or otherwise changed without a written change order from the District. Where additional work is undertaken by Contractor, without prior written approval by the District, Contractor hereby waives any right to payment for such materials or work.

## 3. **Warranty of the Work:** Contractor guarantees and warrants that materials and equipment furnished under this Agreement will be of good quality and new unless otherwise agreed in writing. Contractor warrants that the work performed under the terms of this Agreement will be free from defects. If there are defects in the work, equipment or materials, Contractor shall promptly remedy and repair any such defects. If Contractor does not promptly remedy any defects, the District may undertake repairs and charge Contractor the reasonable costs of replacement or repair.

4. **Design Plans and Specifications:** The Contractor shall strictly comply with any and all design plans and specifications provided to it by the District in connection with the materials and work. Failure to comply shall constitute a material breach of this Agreement. Contractor shall be responsible seeking clarification of any questions concerning design plans and specifications.

5. **Indemnification:** To the fullest extent permissible by law, Contractor shall indemnify and hold harmless the District, it’s officers, employees and agents from and against any and all demands, claims, suits, costs of defense, attorneys’ fees, witness fees, including expert witness fees, liabilities and other expenses including damage to property, loss of use of property or for injury to or death of any person, including, but not limited to, any employee, agent, servant, independent subcontractor or subcontractor of the Contractor, or a member or members of the general public, in any way arising directly or indirectly from or in connection with the construction, installation or other performance of terms of this Agreement by any Contractor.

6. **Payment and Waiver of Liens:** Contractor shall be paid for the work specified by this Contract pursuant to the attached Schedule of Work and Payments. **(Please attach a payment schedule)(Alternatively, you may use this language: Payment Schedule:** The District shall make progress payments to Subcontractor within 30 days of approval of the Contractor’s work by the District, less the retainage amount of 10%.**)** The District may require that all of Contractor’s material suppliers and subcontractors provide waivers of their right to place a lien on the Project in a form satisfactory to the District before payment is made.

7**. Retainage**: Unless otherwise agreed in writing, ECE shall be entitled to a retainage of (**insert percentage**) of amounts payable under this Subcontract, which retainage shall not be required to be paid until **(Please insert the number of days---also give consideration to whether there is a retainage provision in the General Contract)** after the work specified by this Agreement is complete. At that time, the retainage shall be paid only if the work has been satisfactorily performed. The District may offset any financial harm incurred by it because of defective work, if any, from the retainage funds.

8. **Assignment of Work/Subcontracting:** Subcontractor may not assign or otherwise delegate to independent contractors the work subject to this Agreement without the written consent of The District. The District shall review any subcontract proposed by Contractor before providing consent to subcontract the work. Further, the work specified herein is not assignable and is specific to Contractor. Any assignment of work shall incorporate the provisions of this Agreement such that assignees or subcontractors shall be bound to the District in the same manner and extent as specified for Contractor under this Agreement.

9. **Insurance:** Contractor shall purchase and provide proof of insurance to the District as specified below. Any subcontractor to Contractor must have and provide proof of insurance to the District for all the insurances identified below.

1. Contractor shall maintain at all times during the project a Commercial General Liability Policy for damages from “bodily injury,” property damage,” and “personal and advertising injury” arising out of or caused by any operations and completed operations. Limits of Liability will be $1,000,000.00 each “occurrence,” $2,000,000.00 general aggregate, on a per project basis. Such policy shall also contain a $2,000,000.00 Products Completed Operations Coverage aggregate. The District shall be identified as an additional insured under the policy and the policy shall be primary to any other policies of insurance covering. Any insurance policy and/or coverage purchase by the District shall be excess to Contractor’s coverage, including excess insurance coverage, if any.

b. Completed operations coverage must be maintained for a minimum of two years after the completion of the work specified herein.

1. Worker’s Compensation Insurance for all Contractors’ employees, with a minimum Liability Limit of $1,000,000.00.
2. Business Auto liability insurance coverage with coverage limits of at least $1,000,000. Such insurance shall provide primary coverage for all of Contractor’s employees and for all motor vehicles utilized in connection with the work performed under this Subcontract. General Contractor and the District shall be named additional insureds under the policy.
3. Commercial Umbrella insurance policy with limits equal to or greater than $5,000,000.

The District may at its discretion request proof of insurance at any time during the period in which the policy is required by this Agreement to be effective. If Contractor fails to obtain or maintain the required insurance or to provide proof of insurance, it shall constitute a substantial breach of the Agreement. Without limitation, Contractor shall be liable for any and all costs, liabilities, damages and penalties (including attorney’s fees and costs) resulting to the District from such breach.

10. **The District’s and Contractor’s Obligations upon Default:** In the event Contractor terminates this Agreement because of a breach of the terms of this Agreement or in the event that the District terminates this Agreement, the District shall have no liability to Contractor except to pay the contract price for work satisfactorily completed. Contractor hereby waives and releases any rights or claims for consequential damages arising from or related to its performance under the terms of this Agreement or termination of the Agreement. Contractor shall be liable for, without limitation, any extra costs incurred to obtain substitute performance to complete the work, including design, managerial, administrative and materials costs. The District shall be entitled to its attorney’s fees and costs in connection with any claims, damages or demands for compensation made by it against Contractor where the Contractor has breached the terms or conditions of this Agreement.

11. **Waiver of Subrogation:** Contractor and its insurers hereby waive any and all rights of subrogation against the District, its officers, directors, employees, agents, representatives and insurers for any claims arising from or related to the work performed hereunder or harm suffered by Contractor in connection with this project. All insurances purchased pursuant to this Agreement shall contain a waiver of subrogation provision or endorsement in the policy.

12. **Governing Law:** This Subcontract shall be governed by and construed under the laws of the State of Vermont. Any litigation relating to or arising from this Subcontract shall be initiated and maintained in the State of Vermont and Vermont shall have exclusive jurisdiction over any such disputes.

13. **Mediation and Arbitration:** The parties agree that any disputes, claims or disagreements arising from or related to this Subcontract or the work performed pursuant to the Subcontract shall be first submitted to mediation at a mutually agreeable Vermont location with an impartial mediator. In the event that the matter is not resolved at mediation, the parties hereby agree that the matter will be submitted to binding arbitration. The arbitration shall be subject to and governed by the procedures and requirements of the Vermont Arbitration Act.

**ACKNOWLEDGEMENT OF ARBITRATION:**

**I understand that this agreement contains an agreement to arbitrate. After signing this document, I understand that I will not be able to bring a lawsuit concerning any dispute that may arise which is covered by this arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, I agree to submit any such dispute to an impartial arbitrator.**

14. **Severability:** In the event any provision of this Contract shall be declared invalid, such provision shall be deemed severable from the remaining provisions of this Agreement, which shall remain in full force and effect.

15. **Waiver of Consequential Damages:** Contractor hereby for itself and any assignees or subcontractors waives the right to seek consequential damages against the District. Any claims raised by Contractor shall be limited to amounts owed as payment for work performed under this Agreement.

16. **Notices:**  All written notices shall be sent to the parties by U.S. mail at the following locations:

Signed, this \_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_\_.

Contractor:

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

Authorized Representative

Signed, this \_\_\_ day of \_\_\_\_\_\_\_, 20\_\_

The District

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

Authorized Representative