



## MASTER SUBCONTRACTOR AGREEMENT

### SUBCONTRACTOR:

**Business Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**License(s):** \_\_\_\_\_

**BluSky Representative Name and Contact Info:**

\_\_\_\_\_  
**Subcontractor must provide:** (1) Signed Master Subcontractor Agreement, (2) Proof of Insurance, (3) W-9. BluSky may withhold payment if Subcontractor fails to provide.

**Subcontractor and BluSky Restoration Contractors, LLC (“BluSky”) hereby enters into this Master Subcontractor Agreement (Agreement) effective as of the date first signed herein and continuing until terminated by written notice of one of the parties. The Agreement shall govern and control the relationship of the parties and ALL work, services, materials, or consulting the Subcontractor provides to BluSky. The Parties intend that this Agreement is to have a prospective application as of the execution date of this Agreement. Subcontractor represents that it is properly licensed, experienced, and qualified in the areas of work to be performed under this Agreement. Pursuant to this Agreement, BluSky shall issue Work Orders, in the form attached, or other directives to Subcontractor stating a Scope of Work at a particular location(s) (collectively “Project”) for which Subcontractor is being hired to perform. Each Purchase Order shall be effective and become part of the Agreement upon issuance by BluSky. Subcontractor’s receipt shall be deemed effective upon BluSky’s delivery.**

1. Subcontractor agrees to furnish and pay for all materials, labor, transportation, tools, equipment, knowledge, skills, supervision, incidentals, and insurance required to perform the Scope of Work (“Work”) in a professional manner, free of defects in accordance with the highest standards of the trade. Subcontractor is being hired as an independent contractor and is in no way an employee of BluSky or under the control of BluSky. The Work is ALL INCLUSIVE, unless specifically provided otherwise in the Purchase Order. Any additions required to complete the Work are always included in the Work, including everything necessary to pass inspection by BluSky, Owner, and any local governing body with the applicable jurisdiction where the project is located. There will be no change orders for Work which could have been discovered by Subcontractor prior to signing Agreement and/or which should have been reasonably known to exist by a qualified Subcontractor in this trade. **ANY EXTRA WORK, SCOPE CHANGES, CHANGE ORDER OR CLAIMS FOR THE SAME PERFORMED BY SUBCONTRACTOR WITHOUT PRIOR WRITTEN AUTHORIZATION FROM BLUSKY IS NOT DEEMED TO BE PART OF THE AGREEMENT AND CLAIMS FOR THE SAME ARE HEREBY DEEMED WAIVED AND RELEASED. SUBCONTRACTOR AGREES THAT BLUSKY IS NOT OBLIGATED TO PAY FOR SUCH UNAUTHORIZED WORK.**

2. Subcontractor must be present for all inspections that pertain to its Work. Subcontractor shall comply with all safety regulations including, upon reasonable request by BluSky, submission of Job Hazard Analysis (JHA) or Job Safety Analysis (JSA), and shall coordinate its Work with BluSky and/or

other Subcontractors. Subcontractor shall assume all risk and liability for loss or damage to Subcontractor's materials, tools, or equipment. Subcontractor will perform daily site clean-up related to his Work or that of his workers. Subcontractor is responsible for security for its work tools and materials. Subcontractor agrees to indemnify and hold harmless both Owner and BluSky for any claims, directly or indirectly, on account of loss or damage to its Work tools or materials.

**3. Invoicing and Payment:** Subcontractor will submit detailed invoices describing the work for which it requests payment. Upon request by BluSKy, Subcontractor shall submit conditional lien releases in the form attached, for itself and for all of its suppliers and Subcontractors verifying that upon receipt of payment, Subcontractor and all its laborers, materialmen, Sub-Subcontractors, laborers and suppliers, each waive their lien rights to Work and the Project. Subcontractor agrees to indemnify and hold harmless BluSky from any claims to the contrary. BluSky may, in its reasonable discretion, withhold ten percent (10%) retainage on Work. BluSky will release such payment when the project has been completed. For any Work expressly directed and approved by BluSky in writing for which there is not a specified agreed upon cost, BluSky in its reasonable discretion shall determine the appropriate price to be paid, if any, for such Work. In no event will BluSky be liable for costs associated with Work which was not directed and approved, in accordance with the Agreement, by BluSky in writing prior to the commencement of such Work, or for Work which BluSky, in its reasonable discretion, does not find acceptable. **Unless otherwise agreed, Subcontractor invoices that are properly received by BluSky will be paid on a net 30 basis. Invoices will only be approved for Work that is complete at the time of receipt. Subcontractor waives interest on any payment delayed as a result of improperly submitted invoices. Payment by BluSky shall not be deemed acceptance of non-compliant Work nor acceptance or approval of invoicing for items not explicitly set forth in the Agreement. BluSky shall have no obligation to pay for Work performed improperly or for any costs of expenses Subcontractor incurs related to or arising from its improper Work.**

**4. Performance Time and Liquidated Damages for Delay:** Time is of the essence in performance of Work. Upon request, Subcontractor shall provide BluSky with a proposed Schedule acceptable to BluSky, or, in lieu thereof, as directed by BluSky which shall be deemed the Schedule for each Project. **Failure to comply with the Schedule constitutes Default.** Subcontractor shall be liable for any damages for delay sustained by BluSky caused by Subcontractor, including but not limited to damages, liquidated or otherwise, for which BluSky is liable to Owner and BluSky's overhead and expenses related to managing and supervising the prime contract Work during such periods of delay. BluSky shall not be liable to Subcontractor for delay to Work for reasons beyond its control. Should Subcontractor be delayed in the Work by BluSky, then Subcontractor's sole remedy is an extension of time for completion equal to the delay caused, and then only if written claim for delay is made to BluSky within forty-eight (48) hours from the time of the beginning of the delay.

**5. Changes and Change Orders:** The Subcontractor may be asked by BluSky, without invalidating the Agreement, to make changes in the Work within the general scope of this Agreement consisting of additions, deletions or other revisions to the Work on a Project. Subcontractor, prior to the commencement of such changed or revised Work, shall promptly submit to BluSky any Proposed Change Order for adjustment to the scope, price, or performance Schedule because of such changed or revised Work. All Change Orders shall be in writing, signed and authorized by BluSky, and no additional Work shall be performed by Subcontractor that is not provided under this Agreement without a written and executed Change Order, signed by both the Subcontractor and BluSky. This requirement of a writing shall not be modified by the application of the "course of performance" doctrine. The Parties agree the U.C.C. shall not apply to this Agreement, but only to the extent it modifies any express term of the Agreement or Purchase Order. Subcontractor shall incur all cost associated for such additional Work that was performed without a written and executed Change Order. Subcontractor also hereby acknowledges and agrees that the limit of its claims and recovery against BluSky arising hereunder and/or for Work performed for BluSky is limited to the agreed upon contract price (as modified by written change orders signed by BluSky) and that any other actual, consequential, special, incidental, exemplary or other damages are not recoverable and are waived.

**6. Indemnification:** To the fullest extent permitted by law, the Subcontractor agrees to indemnify, defend, and hold harmless BluSky and the Owner and all their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees and expert witness fees and costs, arising out of, relating to, or resulting from the performance, or failure in performance, of Subcontractor's obligations and Work under this Agreement. This shall include but is not limited to, bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom; claims under workers compensation acts, California Labor Code section 218.7, or any other employee benefit acts with respect to Subcontractor's employees; violation of any federal, state or local law, regulation or code; mechanic's lien or stop notice claims; allegations or claims of joint or co-employment; or any other type of claims, damages, injury or loss arising out of or related to the activities of or the Work performed (including any addenda to this Agreement, "extras" or claimed written or verbal change orders to this Agreement). Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist as to any party or person, described in this provision. In any and all claims against BluSky or any of its agents or employees by an employee of the Subcontractor, anyone directly or indirectly employed by it or any for whose acts it may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under Worker's Compensation Acts, Disability Benefits Acts, or other Employee Benefit Acts.

**7. Insurance:** Prior to starting Work, the Subcontractor shall procure and maintain in force, Worker's Compensation Insurance, Employers Liability Insurance, Comprehensive General Liability Insurance with contractual coverage, and Automobile Liability Insurance. Subcontractor will not be paid for Work completed until such proof of such insurance, including Certificates of Insurance, Waivers of Subrogation, and Additional Insured Endorsements is furnished to BluSky. Review of the Certificates of Insurance by BluSky shall not relieve or decrease the liability of the Subcontractor hereunder. BluSky shall be named as Additional Insured and Certificate Holder on Certificate. Subcontractor's insurance coverage shall provide additional insured coverage on a primary and non-contributory basis. **Subcontractor also waives its right to subrogation against BluSky and Owner and Subcontractor agrees to indemnify, defend, and hold BluSky harmless from all allegations, claims, damages, or losses arising out of or related to the Work or conduct of Subcontractor or any person or entity acting on the behalf or direction of Subcontractor.** All insurance required herein shall be maintained without interruption from and after the date hereof. Liability policies on "claims made basis" will not be acceptable except as may apply to specific areas of coverage acceptable to BluSky such as pollution and professional liability. Unless otherwise provided in this Agreement, the Subcontractor's Comprehensive General and Automobile Liability Insurance, as required shall be written for not less than the limits of liability as follows:

- a) Contractor's Comprehensive General Liability, General Aggregate: Not less than \$1,000,000.00 naming BluSky as additional insured for ongoing operations and completed operations and shall include a waiver of subrogation as to BluSky and Owner.
- b) Workmen's Compensation Insurance, not less than \$500,000 for each occurrence, for all employees of Subcontractor and policy must provide waiver of subrogation as to BluSky and Owner.
- c) Auto Liability Insurance, Not less than \$500,000.00 per occurrence naming BluSky as additional insured for ongoing operations and completed operations and shall include a waiver of subrogation as to BluSky and Owner.
- d) Required Insurance shall be non-cancellable without ten (10) days written notice to BluSky.

**8. Warranty:** The Subcontractor represents and warrants that it shall perform all Work in a workmanlike manner free from all faults and defects. Subcontractor shall perform the Work in full compliance with manufacturer's installation instructions, all government ordinances, codes, rules, and/or statutes. Subcontractor shall exercise due care and skill in performing the Work consistent with the highest standards in the applicable trade. Subcontractor further agrees to reimburse Owner and/or BluSky for all costs and damages incurred as a result of Subcontractor's breach of any such warranty.

**9. Safety:**

- (a) Subcontractor under this Subcontract shall comply, and shall cause all Sub-Subcontractors to comply with all requirements of Occupational Safety and Health Act (OSHA) of 1970 and all other applicable federal, state, and local health, safety and environmental laws, rules, order and regulations.
- (b) Subcontractor under this Subcontract will disclose all information related to past safety performance and will submit Subcontractor's own safety program for review.
- (c) Subcontractor agrees to provide a competent full time onsite supervisor during all site activates and advise his/her name to BluSky without undue delay, including any changes of this person. BluSky shall be entitled to require the Subcontractor to provide evidence supporting the competence of the designated supervisor.
- (d) Subcontractor under this Subcontract agrees to conduct all operations safely, in order to prevent injuries to persons and damage to property. Subcontractor will endeavor to take all practical steps to maintain safe, healthful job conditions. Adequate protective and corrective equipment must be used to minimize existing accident and health hazards.
- (e) The Subcontractor must maintain high standards of housekeeping; keep its work site, vehicles and accommodation clean, tidy and free of unnecessary obstructions. All walkways must be kept clear of materials and free from any substance likely to cause harm to anyone.
- (f) Where the Work presents any risk of fire or causes the exposure of flammable materials on the roof, or work area, the Subcontractor shall provide suitable fire extinguishers and its employees or agents and subcontractors, were appropriate, must be trained in their use. Equipment operators shall be licensed or certified to operate such.
- (g) The Subcontractor agrees that the prevention of accidents to workers engaged in the Work under this Subcontract is the responsibility of the Subcontractor. The Subcontractor agrees to comply with all laws, regulations and codes concerning safety as shall be applicable to the Work and to the safety standards established by BluSky during the progress of the Work.

**10. Knowledge and Consent Regarding Communicable Diseases:** Subcontractor warrants and represents that it is familiar with all applicable laws, ordinances, codes, rules, standards and regulations pertaining to the spread of communicable diseases, including without limitation pandemics, viruses, and COVID-19, and that it, its employees, and all others acting under its direction or control, shall at all times comply with and abide by the same. Subcontractor shall exercise full responsibility for compliance with all such applicable laws, ordinances, codes, rules, standards and regulations by Subcontractor, its agents, employees, suppliers and Subcontractors and Subcontractor shall indemnify and hold BluSky and Owner harmless from any claims arising from a failure to so comply.

**11. Alcohol and Drug Testing:** Drugs and alcohol use or being under the influence thereof, on site is not permitted. Anyone identified as using such or under the influence will be immediately removed from the site. All of Subcontractor's employees operating commercial motor vehicles and subject to the commercial driver's license requirements must comply with the federal motor carrier safety regulations alcohol and drug-testing program.

**12. Personal Protective Equipment:** In addition to what is required to prevent the spread of communicable diseases, Subcontractor must furnish its employees with all reasonably necessary or required personal protective equipment for the type of work being performed.

**13. Safety Meetings:** Subcontractor is expected to conduct a "Tool Box" or "Tailgate" type safety meeting at least once a week with all employees onsite. These meetings will be attended by Subcontractor's supervisor and documented and submitted to BluSky.

**14. Quality of Work and Additional Obligations of Subcontractor:**

- (a) Subcontractor shall supervise and direct the Work and shall cooperate with BluSky in scheduling and performing the Work to avoid conflict, delay in or interference with the Work of BluSky, other Subcontractors or Owner's own forces.

- (b) Subcontractor shall promptly submit Samples, Submittals, Shop Drawings, and Product Data when required by BluSky or the Owner with reasonable promptness and in required sequence outlined by BluSky or Owner, as to cause no delay in the Work.
- (c) Upon request, Subcontractor shall submit a Schedule of Values allocated to various parts of the Work, aggregating the Subcontract Amount. The Schedule of Values must be approved by BluSky prior to Subcontractor making any applications for payment. The Subcontractor's shall submit applications for payment based on the Schedule of Values.
- (d) Upon request, Periodic progress reports on the Work of this Subcontractor shall be provided to BluSky regarding information on the status of materials, equipment which may be used in the course of performance of the Work, Subcontractor's workforce on the job, and other information that may be requested by BluSky regarding the Work.
- (e) Subcontractor agrees that BluSky or the Owner shall each have the authority to reject non-conforming Work.
- (f) All Work shall comply with all manufacturer and supplier requirements concerning installation and product warranty standards, local codes and be in conformance with the highest standards of the applicable trade.
- (g) If Subcontractor finds a discrepancy in the Scope of Work, Drawings, Specifications and other contract documents, Subcontractor shall request a written clarification from BluSky. If Subcontractor does not notify BluSky in writing and continues with Work, Subcontractor shall be responsible for all costs and damages associated with such Work and correction thereof.
- (h) Subcontractor shall comply with all safety regulations of the Federal, State and municipal authorities, and particularly, agrees to comply with all requirements to the Occupational Safety and Health Act of 1970, and all regulations promulgated by the U.S. Department of Labor under the terms thereof.
- (i) Subcontractor shall be responsible for the inspection of portions of the Work already performed to determine that such portions are in proper condition to receive subsequent Work. Commencement of Work constitutes acceptance of same.
- (j) Subcontractor agrees to provide BluSky any reasonably requested documentation related to or arising from its Work.

**15. Dispute Resolution:** All disputes between BluSky and Subcontractor shall be resolved through the Colorado Courts. Colorado law shall apply exclusively and Venue for all proceedings shall be Arapahoe County, Colorado. The parties acknowledge, consent, and submit to the personal jurisdiction of the Colorado courts. In the event legal proceedings are commenced, Subcontractor agrees to pay BluSky its costs and reasonable attorneys' fees in addition to other damages.

**16. Subcontractor Exclusivity:** Absent BluSky's written approval, Subcontractor shall not perform, assign or delegate its duties under this Contract to another, nor shall it, directly or indirectly, contract with Owner, or accept payment from Owner for the Work of this Subcontract. Without BluSky's prior written consent, Subcontractor shall not solicit Owner to enter into a contract, nor accept from Owner an offer, to perform, directly or indirectly, any Work for the Owner, for ninety days after the completion of the Work under this Agreement. In the event of violation, Subcontractor agrees to pay to BluSky all monies Subcontractor receives in violation of this provision.

**17. Subcontractor Default:**

- (a) In the event that Subcontractor fails to cure any delay or defect in performance of work per BluSky's direction then BluSky may in its sole discretion and election, at any time, terminate or supplement Subcontractor's further performance and backcharge Subcontractor for costs to remedy the delay or defect as well as for any additional costs BluSky incurs, above the Contract Price, to complete Subcontractor's Scope of Work and including any other consequential or liquidated

damages BluSky incurs including costs and attorneys' fees.

- (b) In the event of termination, to the extent materials have been ordered, Subcontractor, specifically and irrevocably directs such suppliers to thereafter, upon demand of BluSky, to respond to and deliver the materials in accordance with BluSky's instructions.
- (c) BluSky may deduct the backcharges, including without restriction thereto, all charges, expenses, losses, costs and damages incurred as a result of the Subcontractor's default from any money then due or thereafter to become due to the Subcontractor.
- (d) The remedies provided in this provision are cumulative, in addition to, and not in lieu of, any other remedies, legal or equitable, available to BluSky whether provided under this Subcontract or otherwise. In the event of legal proceedings concerning Subcontractor's default, Subcontractor agrees to pay BluSky its costs and legal fees in addition to actual damages sustained. The undersigned personally guarantees Subcontractor's faithful performance of this Agreement.
- (e) Subcontractor shall keep all properties on which it works free from liens or claims related to or arising from its Work.

**18. Termination:** BluSky may at any time and for any reason, terminate this Agreement for convenience upon written notice to Subcontractor. In such event, Subcontractor shall be entitled to its costs and profit thereon only upon Work performed to date of Termination. The terms of this Agreement shall survive any termination, whether by BluSky or Subcontractor.

**19. Assignment:** Subcontractor shall not be permitted to assign or subcontract any portion of the Work, without express written permission of BluSky.

**20. Entire Agreement and other Terms and Conditions:** This Agreement and those terms and conditions contained at [www.goblusky.com/about-us/blusky-trade-partners](http://www.goblusky.com/about-us/blusky-trade-partners) represent the entire Agreement of the parties. All prior agreements respecting the subject matter hereof are of no force or effect. **ALL OTHER TERMS AND CONDITIONS NOT CONTAINED HEREIN ARE EXPRESSLY EXCLUDED.** In the event of an ambiguity, contradiction, or competing term, condition or provision between this Agreement and Subcontractor's Proposal, bid documents, Scope of Work exhibits, or any other agreement, exhibit or attachment, this Agreement shall control and govern to the exclusion of all other documents.

**21. No Alterations:** No revisions or alterations to this Agreement shall be binding or enforceable against BluSky unless approved and signed by the parties.

IN MANY STATES INCLUDING CALIFORNIA, CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR (4) YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN TEN (10) YEARS OF THE DATE OF THE ALLEGED VIOLATION. FOR CALIFORNIA, ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA, 95826.

**Dated:** \_\_\_\_\_

**BLUSKY:**

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: 9110 E. Nichols, Ste. 180, Centennial, CO 80112

**SUBCONTRACTOR:**

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_