

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

TERMS AND CONDITIONS

Subcontractor _____ Telephone No. _____ Fax: _____

Subcontract 0000-000 _____ Job No. 0000 _____

THIS SUBCONTRACT AGREEMENT ("Subcontract" or "Agreement"), is made this _____ day of _____ 20 _____ ,
by and between MACRO-Z-TECHNOLOGY COMPANY (the "Contractor"), and

("Subcontractor"), as follows:

SECTION 1. The Subcontractor agrees to furnish all management, supervision, materials, labor, tools, equipment and supplies necessary to perform all work set forth in "Section 2" hereof (the "Work") in the construction of:

for _____
(the "Owner") at _____

in accordance with the terms and provisions of the Prime Contract between the Owner and the Contractor, dated _____ (the "Prime Contract"), including all the General and Special Conditions, Drawings, Specifications and other Documents forming or by reference made a part of the Prime Contract between the Contractor and the Owner, all of which form the "Contract Documents" and shall be considered part of this Subcontract by reference thereto, and the Subcontractor agrees to be bound to the Contractor and the Owner by the terms and provisions thereof. Subcontractor acknowledges that it is familiar with the Contract Documents. Conditions of Subcontractor's proposal are not Contract Documents unless specifically incorporated in this Agreement.

In the event of a conflict between this Agreement and the Contract Documents, this Agreement shall control except as otherwise stated herein. The Contract Documents are intended to complement one another, what is called for by one is as binding as if called for by all. Conflicts in the Contract Documents brought to the attention of Contractor after this Agreement becomes effective shall not be considered as a basis for price adjustments. In the case of conflicting or incomplete technical information, it is the responsibility of Subcontractor to bring such conflicts or deficiencies to Contractor's attention, in writing, prior to the award of the Subcontract.

This Agreement, the Contract Documents, and relevant portions of the Prime Contract comprise the entire agreement between Contractor and Subcontractor concerning the Work. This Agreement may not be amended or supplemented except by written instrument duly executed by both parties hereto. No estimates or bids of Subcontractor preceding this Agreement and no verbal agreement or conversation with any representative of Contractor, either before or after execution of this Agreement, will affect or modify any of the terms or provisions contained in this Agreement or the Contract Documents.

It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with this Agreement. The Work includes design assistance as well as all labor, materials, and equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result and Subcontractor shall furnish and perform such Work whether or not specifically called for. When words or phrases that have a well-known technical or construction industry or trade meaning are used to describe Work, materials or equipment, such words or phrases shall be interpreted in accordance with that meaning. Captions and titles in this Agreement are for convenience only, and are not to be used as an interpretation of any provisions.

Specifications and detailed drawings which may be prepared or approved by Contractor after the signing of this Agreement are a part of this Agreement if the Work shown or indicated could have been fairly inferred from the original Contract Documents, and that Work shall be performed for the Subcontract Price.

Subcontractor acknowledges that the Contract Documents are sufficient for their intended purpose. Reference to standards, specifications, manuals or codes of any technical society, organization, or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code, or laws or regulations in effect on the earlier of the date of the start of the Work or date of the execution of this Agreement, except as may be otherwise specifically stated in the Contract Documents.

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

SECTION 2. It is agreed that the materials to be furnished and/or work to be done by the Subcontractor are as follows:

See Attachment "A" for Bid Item Prices and Description of Work

See Attachment "B" for California Labor Code provisions

REGARDLESS OF THE PROVISIONS IN THE PRIME CONTRACT BETWEEN THE CONTRACTOR AND THE OWNER, THE SUBCONTRACTOR SHALL FURNISH AND PAY FOR ALL LAYOUTS, BACKING, TESTING, HOISTING OF MEN AND MATERIALS, AND TEMPORARY HEAT, POWER AND LIGHTS REQUIRED FOR WORK TO BE PERFORMED UNDER THIS SUBCONTRACT.

When the Subcontractor does not install material furnished under this Subcontract, such material as is not installed is to be delivered F.O.B. jobsite.

SECTION 3. The Contractor agrees to pay the Subcontractor for furnishing the materials and performing the work, as specified herein, the sum of _____ Dollars

subject to additions and deductions for changes agreed upon or determined as hereinafter provided (sometimes referred to herein as the "Subcontract Price").

SECTION 3.(a) TIME & MATERIALS (T&M)

All Work authorized by the Contractor to be completed on a T&M basis will require Subcontractor to submit to Contractor daily timesheets by 9:00a.m. for the previous day's work. All costs associated with the day's work shall be listed. Costs will be submitted on Contractor's standard timesheet which shall be completed in its entirety to provide total costs expended for each of the three main categories of Labor, Equipment Rental, and Materials (list materials daily and submit actual material invoice for pricing back-up).

Labor shall reflect actual hours worked per person, broken down by the (company) Code of Accounts and charge type (straight time, overtime, etc.). Equipment rental charges shall be listed by each piece of equipment. Material shall be listed the day it is received on the Project Site. Accompanying documentation such as Material Receiving Reports of Invoices must be attached as backup. All costs including drayage, freight, taxes, and mark-up shall be included. Representatives of both Subcontractor and Contractor shall sign the daily timesheets in agreement of the scope of services and materials provided for the day. These approved timesheets will be used as invoice backup.

SECTION 3.(b) INVOICES/PAYMENT

Invoices for monthly progress payments, T&M, Change Orders, etc., shall be submitted in a form reasonably acceptable to the Contractor and shall include, at a minimum, all back-up documentation required under this Section 3 and a statement of the Work in place as of the date of each invoice in accordance with a schedule of values mutually agreed to in writing between the Subcontractor and Contractor prior to commencement of the Work. Invoices shall be submitted to the Contractor no later than the 5th of the following month. Purchase Order numbers shall be included on all invoices, packing slips, receivers, delivery tickets, etc. Subject to Contractor's right to withhold or offset payments under this Agreement or under applicable law, Contractor shall make monthly payments to Subcontractor for the labor and materials that have been placed in position, has been properly invoiced by Subcontractor, and for which payment has been made by Owner to Contractor, less retention in the same percentage that Owner withholds from Contractor, (a) within ten (10) business days after Contractor has received payment from Owner for Work of Subcontractor, or (b) if no payment has been received by Contractor from Owner, within a reasonable time as determined under all the circumstances. Any retention withheld from Subcontractor shall be retained by Contractor until Contractor receives final payment from Owner, the entire scope of Work required by the Prime Contract has been fully completed in conformity with the Contract Documents and has been delivered and accepted by Owner, Architect, and Contractor; Owner has accepted Subcontractor's warranties, as-built drawings and operation and maintenance manuals; and Subcontractor has furnished Contractor with satisfactory evidence, including signed releases, that all obligations incurred by Subcontractor pursuant to this Subcontract which may be the basis for a mechanic's lien, stop notice and/or payment bond claim have been paid in full. The retained percentage shall be paid to Subcontractor (a) within seven (7) business days after Contractor receives its final payment from Owner, or (b) within a reasonable time as determined under all the circumstances. The parties agree that a reasonable time within the meaning of this paragraph shall not be less than ninety (90) days from the date that payment is due from Owner to Contractor or, if Contractor is engaged in litigation or arbitration against Owner with regard to Work performed by Subcontractor or sums owing therefor, within thirty (30) days following the conclusion of such litigation or arbitration. Acceptance of final payment by Subcontractor shall constitute a waiver of claims by Subcontractor, except for claims reserved in a final release.

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

At Contractor's request, Subcontractor shall prepare and submit for Contractor's approval a Schedule of Values apportioned to the various divisions or phases of the Subcontractor's Work. The value of the Work will be determined by reference to the Subcontractor's price, but shall not exceed the Owner's allowance for the Work for which payment has been received by the Contractor.

As a condition to its right to receive any payments under this Subcontract, Subcontractor agrees to furnish releases and affidavits in form satisfactory to Contractor, as pertaining to amounts due or to become due, amounts paid to suppliers, employees and parties otherwise contractually related with Subcontractor, payroll affidavits, receipts, vouchers, releases of claims for labor, material, and subcontractors and employees performing Work or furnishing materials under this Agreement. It is agreed that no payment hereunder shall be made, except at Contractor's option, until and unless such affidavits, receipts, vouchers, or releases, or any or all of them, have been furnished. Subcontractor will permit Contractor to audit its payroll accounts periodically to determine whether amounts for required prevailing wages, fringe benefits and payroll taxes have been paid. Any payment made hereunder prior to completion and acceptance of the Work, as referred to above, shall not be construed as evidence of acceptance of any part of Subcontractor's Work, or as an admission that this Agreement, or any part of it, has been complied with if the facts are otherwise. Contractor may deduct from any amounts due or to become due to Subcontractor any sum(s) owing by Subcontractor to Contractor by virtue of this Agreement or any other relationship between the Parties.

No partial payment to the Subcontractor shall operate as approval and/or acceptance of work done or materials furnished under this Subcontract. If the terms of this Subcontract provide for the payment for work performed on a unit price basis, Subcontractor agrees to be bound by the Owner's measurement of the quantity of work; however, if Owner does not measure for work, Subcontractor agrees to be bound by Contractor's measurement of the quantity of work. Any partial payment or payments made by the Contractor to the Subcontractor will be subject to final audit and adjustment and the Subcontractor agrees to reimburse the Contractor in the event there is any overpayment. The acceptance by Subcontractor of final payment shall constitute a release by the Subcontractor in favor of Contractor and its Surety of all claims against Contractor and its Surety arising under or by virtue of this Subcontract other than those claims excepted therefrom with the written consent of the Contractor. Subcontractor agrees to accept the price or prices set forth herein as full compensation for doing all work and furnishing all material contemplated and embraced in this agreement; for all loss or damage arising out of the nature of the work aforesaid or from the action of the elements or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by Owner; for all risks of every description connected with the work; for all expenses incurred by or in consequence of the suspension or discontinuance of the work; and for faithfully completing work and the whole thereof in the manner and according to the requirements of Contractor and Owner and the instructions of the Owner's Representative in charge of said work.

The Contractor may deduct from any amounts due or to become due to the Subcontractor any sum or sums owing by the Subcontractor to the Contractor; and in the event of any breach by the Subcontractor of any provision or obligation of this Subcontract; or in the event of the assertion by other parties of any claim or lien against the Contractor or Contractor's Surety or the construction site arising out of the Subcontractor's performance of this Agreement, the Contractor shall have the right, but is not required, to retain out of any payments due or to become due to the Subcontractor an amount sufficient to completely protect the Contractor from any and all loss damage or expense therefrom until the situation has been remedied or adjusted by the Subcontractor to the satisfaction of the Contractor. If Contractor exercises this right in good faith, Subcontractor shall not be entitled to any interest whatsoever on the money so retained regardless of the outcome of any subsequent claim resolution or litigation.

Contractor shall have the right at all times to contact Subcontractor's sub-subcontractors and suppliers to verify that such persons are being paid currently by Subcontractor for labor, materials, or equipment on this Project. When requested by Contractor, the Subcontractor shall furnish copies of sub-subcontracts in effect, with confidential information removed. The Subcontractor shall furnish from time to time, if requested by the Contractor, sworn affidavits in accordance with the form provided by the Contractor, which shall state the amount due, to become due and amounts paid to suppliers and other parties contractually related with the Subcontractor with respect to labor and materials furnished or to be furnished under this Subcontract. Contractor reserves the right to make payment by joint check or by direct check to Subcontractor's materialmen or subcontractors or any person who has right of action against Contractor or Contractor's Surety under any law. Subcontractor agrees that Contractor reserves the right of determination as to what manner of payment shall be made. The Subcontractor shall also furnish, if requested by the Contractor and as a condition precedent to any payment becoming due hereunder, notarized waivers of lien, surety bond, and notice to withhold rights from any, or all, of Subcontractor's laborers, material men, or sub-subcontractors.

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

If Contractor has reason to believe that obligations incurred by Subcontractor are not being paid, Contractor shall give written notice of such claim or lien to Subcontractor and may take any steps Contractor deems necessary to see that progress payments are utilized to pay such obligations. If within five (5) days after mailing or delivery of said notice, Subcontractor does not supply evidence to the satisfaction of Contractor that the monies owing to the claimant have been paid then Contractor shall have the right but not the obligation to:

- i. retain out of any payments then or thereafter due Subcontractor a reasonable amount to protect Contractor from any and all loss, damage, or expense, including attorney's fees, arising out of or relating to any such claim or lien until the claim or lien has been satisfied by Subcontractor;
- ii. contact any person who furnished the labor, services, material, equipment, fixtures, apparatus or machinery, or the person otherwise entitled to payment to ascertain the status of any payment due and owing by the Subcontractor;
- iii. require Subcontractor to supply adequate assurance and protection that Subcontractor will pay the person who furnished the labor, services, material, equipment, fixtures, apparatus or machinery, or the person otherwise entitled to payment to ascertain the status of any payment due and owing by the Subcontractor; or
- iv. after notice to Subcontractor, contact Subcontractor's accountant or financial institution to determine if Subcontractor has adequate capital to make payment to the person who furnished the labor, services, material, equipment, fixtures, apparatus or machinery, or the person otherwise entitled to payment; or
- v. Further, Contractor shall have the right to pay such claimant directly out of funds then or thereafter due Subcontractor, or to issue joint checks to Subcontractor and claimant at Contractor's sole option.

The Subcontractor agrees and covenants that money received for the performance of this Subcontract shall be used solely for the benefit of persons and firms supplying labor, materials, supplies, tools, machines, equipment, plant or services exclusively for this project in connection with this Subcontract and having right to assert liens or other claims against the land, improvements or funds involved in this Project or against any bond or other security posted by Contractor or Owner; that any money paid to the Subcontractor pursuant to this Subcontract shall immediately become and constitute a trust fund for the benefit of said persons and firms, and shall not in any instance be diverted by Subcontractor to any other purpose until all obligations arising hereunder have been fully discharged and all claims arising therefrom have been fully paid.

Subcontractor shall maintain a method of accounting in accordance with generally accepted accounting principles and practices and such as is acceptable to Contractor. For the purpose of auditing such costs and payments, Contractor shall have access during regular business hours to books, records, accounts, correspondence, instructions, plans, drawings, receipts and memoranda ("Audit Information") of Subcontractor which are pertinent to the Work. Should Contractor desire to make an audit, Subcontractor agrees to make available such Audit Information for at least three (3) years after the final billing for each item of Work.

If at any time the Contractor, at its sole discretion, shall determine that the Subcontractor's financial condition has become unstable or unsatisfactory, the Subcontractor shall furnish additional security satisfactory to the Contractor within three days after written demand therefor is mailed or delivered to Subcontractor, and, in default of furnishing said additional security, the Contractor shall have the option to cancel this Subcontract or to initiate such other action as the Contractor may, at its sole discretion, deem necessary for the protection or preservation of its interests and/or the prevention of delay in the efficient and orderly progress of work on the Project, including but not limited to that portion of the work to be performed by Subcontractor hereunder. In the event of such cancellation, the rights of the Contractor shall be the same as if the Subcontractor had willfully refused to further perform the Subcontract.

No change, alteration or modification in the terms and conditions of this Subcontract or in the terms or manner of payment shall in any way exonerate or release, in whole or in part, any surety on any bond furnished by or on behalf of the Subcontractor.

SECTION 4. If at any time prior to final payment hereunder the Owner reduces the amount of retainage held from the Contractor, the Contractor may, at its sole discretion, without the consent of the Subcontractor's Surety, reduce accordingly the retained percentage withheld from the Subcontractor.

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

SECTION 5. The Contractor may, at any time by written order of Contractor's authorized representative, and without notice to the Subcontractor's Surety, make changes in, additions to and omissions from the work to be performed and materials to be furnished under this Subcontract, and the Subcontractor shall immediately proceed with the performance of this Subcontract as so changed. Any changes or modifications shall be subject to all the terms and conditions of this Subcontract. Any increase or decrease in the Subcontract Price resulting from such changes shall be agreed upon in writing by the parties hereto. A disagreement between the Contractor and the Subcontractor as to an increase or decrease in the Subcontract Price or as to any adjustment to the time of Subcontractor's performance shall not relieve the Subcontractor from immediately proceeding with the performance of the Subcontract as modified, changed or amended. Any claim for adjustment of the Subcontract Price under this section must be made in writing within ten (10) days from the date such changes are ordered. No increase or decrease in the Subcontract Price shall be binding on the Contractor, unless agreed upon in writing or determined by the Owner's Representative as provided for herein; further provided that if Subcontractor is given an oral directive by Contractor to perform work for which the Subcontractor considers it has a right to additional payment, performance of said work shall not be a waiver of the right to litigate the issue of further payment if, but only if, Subcontractor personally delivers to Contractor's job site representative a "Notice to Intent to File Claim for Additional Money" within three (3) days of such oral order and provided further that a copy of said notice is mailed to Contractor's local California office within said period. If said notice is given, as a condition precedent to thereafter making claim, Subcontractor shall submit in person to Contractor's job site representative on a weekly basis a complete breakdown of all costs occasioned by the asserted extra work including a labor breakdown by name of person, hours worked and task performed for each employee performing said extra work as well as a similar breakdown for all equipment used and copies of all invoices and delivery tickets for materials used. IF SAID "NOTICE OF INTENT TO FILE CLAIM FOR ADDITIONAL MONEY" IS NOT GIVEN OR IF SAID EXTRA WORK LABOR, EQUIPMENT, AND MATERIAL BREAKDOWN IS NOT GIVEN, SUBCONTRACTOR AGREES THAT EITHER SUCH FAILURE WILL BE AND CONSTITUTE CONCLUSIVE AND NONREBUTTABLE EVIDENCE (IN THE ABSENCE OF ACTUAL FRAUD) THAT NO ORAL DIRECTIVE FOR EXTRA WORK WAS GIVEN BY CONTRACTOR AND THAT NO PAYMENT FOR SAME IS DUE SUBCONTRACTOR. This Section 5 shall not in any way apply to claims for extra work for less than Three Hundred Dollars (\$300.00).

SECTION 6. This Agreement contains the entire agreement between the parties as to subject matter thereof. All previous, contemporaneous, or subsequent agreements, representations, warranties, promises, and conditions relating to the subject matter of this Agreement are hereby superseded, unless specifically added in a written Amendment, entitled "Amendment" and executed by both parties. This Agreement contains all covenants, stipulations and provisions agreed upon by the parties hereto. No agent or representative of either party has authority to make, and the parties shall not be liable for, any statement, representation, promise or agreement not set forth herein.

Subcontractor represents that it had carefully examined all of the documents comprising the General Contract and is familiar with the terms and conditions thereof, and has fully acquainted itself with all obstructions, subsurface and other conditions relevant to the work, the site of the work and its surroundings, and assumes the risk of any variances between the actual conditions and the conditions shown or represented in the Prime Contract or this Subcontract; that is has made all investigations essential to a full understanding of the difficulties which may be encountered in performing the Work; and that anything in the General Contract, this Subcontract, or in any representations, statements or information made or furnished by Contractor or Owner notwithstanding, Subcontractor will complete the Work for the compensation stated in this Subcontract, and assume full and complete responsibility for all conditions relating to the Work, the site of the Work or its surroundings and all risks in connection therewith, provided that Contractor shall be liable to Subcontractor for differing site conditions to the same extent, but only to the extent, that Owner is liable to Contractor for same as far as it concerns Subcontractor's Work and provided further that the "Notice To File Claim for Additional Money" is lodged by Subcontractor in the manner and time set forth in Section 5 hereof. It is further understood that the sole and only situation, barring actual active and intentional fraud by Contractor, for which Subcontractor shall be entitled to extra payment for differing site conditions is where Owner is similarly liable to Contractor and any such payment will not become due Subcontractor until ten (10) days after such payment is actually received by Contractor from Owner. Said actual payment by Owner in such situation shall be a condition precedent to any payment of any kind becoming due Subcontractor.

SECTION 7. In the event any payment for extra work becomes due from Owner for work performed by Subcontractor under Sections 5 and 6 hereof, it is understood and agreed that any mark-up for overhead or profit on Subcontractor's work shall be split sixty (60) percent to Subcontractor and forty (40) percent to Contractor.

SECTION 8(a). The Subcontractor shall furnish all materials, labor, tools, equipment and supplies necessary for the performance of this Agreement in a proper, efficient and workmanlike manner. The Subcontractor shall prosecute the Work undertaken in a prompt and diligent manner whenever such Work, or any part of it, becomes available, or at such other time or times as the Contractor may direct, so as to promote the general progress of the entire construction, and shall not, by delay or otherwise, interfere with or hinder

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

the work of the Contractor or any other Subcontractor. If Contractor shall deem it necessary, Subcontractor, at its own expense and on demand of Contractor, shall provide additional work, forces, overtime, additional shifts and shall expedite the furnishing of material so as to meet the progress schedule. Any materials that are to be furnished by the Subcontractor hereunder shall be furnished in sufficient time to enable the Subcontractor to perform and complete its Work within the time or times provided for herein. The Subcontractor agrees to reimburse the Contractor for any and all liquidated damages that may be assessed against the Contractor by the Owner which are attributable to or caused by the Subcontractor's failure to furnish the materials and perform the Work required by this Subcontract within the time fixed and/or in the manner provided for herein, and in addition thereto, agrees to pay to the Contractor such other or additional damages as the Contractor may sustain by reason of such delay by the Subcontractor. The payment of such damages shall not release the Subcontractor from its obligation to otherwise fully perform this Subcontract. Upon written request by the Contractor, the Subcontractor shall furnish to the Contractor such evidence as the Contractor may require relating to the Subcontractor's ability to fully perform the Subcontract in the manner and within the time specified herein. The time given Contractor to perform all its work under its Contract with the Owner shall not be the time Subcontractor has to perform its Work nor evidence of same, but Subcontractor shall be required to perform its Work in strict accordance with Contractor's baseline schedule, revisions and monthly updates of work. A copy of the baseline schedule is provided herewith. Copies of monthly updates or schedule revisions will be provided under separate cover as applicable

In the event the Subcontractor fails to comply or becomes disabled from complying with the provisions herein as the character and time of performance, and the failure is not corrected within forty-eight (48) hours after written request by the Contractor to the Subcontractor, the Contractor may, without prejudice to any other right or remedy, take over and complete the performance of the Agreement or any part thereof at the expense of the Subcontractor; or the Contractor may, without taking over the work, furnish the necessary materials and may employ any other person or persons including another Subcontractor to finish the Work and provide materials therefor, all without liability on the part of the Contractor for any damage, wear or tear, depreciation, theft, action of the elements, acts of God, fire, flood, vandalism, or other injury or damage to said materials, tools and appliances of Subcontractor; and in case of such discontinuance of the Subcontractor's Work by Contractor, Subcontractor shall not be entitled to receive any further payment under the Subcontract until the said Work shall be wholly finished and Contractor shall have received payment in full therefor from Owner, at which time, if the unpaid balance of the amount to be paid under this Subcontract exceeds the expenses incurred by the Contractor in finishing the Work, such excess shall be paid by the Contractor to the Subcontractor subject to Section 8(b); but if such expense shall exceed such unpaid balance, then the Subcontractor shall pay the difference to the Contractor. As used in this Section the word "expense" shall be defined to mean actual cost to Contractor plus an amount equal to fifteen per cent (15%) of such cost on account of overhead. The expense incurred by the Contractor as herein provided, either for furnishing materials or for finishing the Work, and any damages incurred by such default shall be chargeable to and paid by such Subcontractor, and the Contractor shall have a lien upon all materials, tools and appliances taken possession of, as aforesaid, to secure the payment thereof.

Contractor shall have the right to enter upon the premises and take possession, for the purpose of completing the Work included in this Subcontract, of all materials, tools, and appliances thereon.

It is agreed that Subcontractor shall be considered as disabled from prosecuting the Work covered by this Subcontract if Subcontractor's interest herein, or any part thereof be assigned or transferred in any manner, either voluntarily or involuntarily or by operation of law, or if a petition under any of the Chapters of the Bankruptcy Act or a petition for the appointment of a Receiver is filed by or against Subcontractor, or if Subcontractor dies or becomes insolvent.

SECTION 8(b). In the event Contractor exercises any of its rights under Section 8(a) hereof and in the event that Contractor is liable to Owner for a Guarantee or Warranty for some period of time for Subcontractor's Work, then Subcontractor shall, at its sole cost, post with Contractor a surety bond by a surety acceptable to Contractor which shall guarantee the performance by Subcontractor of all such Guarantee or Warranty work which may thereafter be required by Owner. If such surety bond is not posted, no payment of any kind shall become due Subcontractor under any circumstance until said Warranty or Guarantee period has expired. Any payment then due after the expiration of said Warranty or Guarantee period will be made less any costs of performing any Work by the Contractor under said Warranty or Guarantee, but without any interest on the money withheld hereunder.

SECTION 9. In the event Subcontractor's performance of this Subcontract is delayed or interfered with by acts of Owner, Contractor or other subcontractors, Subcontractor may request an extension of time for the performance of same, as hereinafter provided, but shall not be entitled to any increase in the Subcontract Price or to damages or additional compensation as consequence of such delays. If a progress schedule is furnished by Contractor to Subcontractor, it shall be solely for Contractor's benefit; provided, however, Subcontractor must be ready to perform at the times indicated in the progress schedule. Contractor makes no representation that it will be ready for Subcontractor at the times indicated in said schedule regardless of whether delays may be occasioned by circumstances within the control of Contractor. Subcontractor shall submit for Contractor approval, within seven (7) calendar days of subcontract

MACRO-Z-TECHNOLOGY COMPANY (MZT)

SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

award, a preliminary schedule defining Subcontractor's planned operations for the first sixty (60) calendar days. Subcontractor shall submit for Contractor approval, within thirty (30) days of subcontract award, a CPM project schedule showing the sequence and the due date of data Submittals, Contractor approvals, procurement, fabrication, payment milestones, contractual milestones, and all construction activities to coincide with the Schedule of Work. The project schedule shall include an appropriate level of detail. Reasonable durations are those that allow the progress of activities to be accurately determined between update periods.

Contractor intends to use Primavera software for the integrated project schedule. Other scheduling software or manual methods used by Subcontractor to produce required information shall require approval by Contractor. All schedules prepared with Primavera software shall be configured to calculate data as follows:

- (a) Contiguous scheduling
- (b) Total float calculations based upon finish dates
- (c) Retained logic
- (d) Start-to-start lags calculated from actual start dates
- (e) Percent complete and remaining duration not linked

Subcontractor's Baseline schedule and all updates of the Detailed Construction Schedule shall:

- Be manpower-loaded by activity.
- Utilize the Critical Path Method (CPM) with predecessor/successor relationships defined.
- Include all interferences and impacts to Subcontractor's Work.
- Have a Contractor account code (Levels 1 and 2) assigned to each activity and produce percent complete progress curves
- Be based on man hours extracted by Contractor account code.
- Display all major milestones for completion of Work as defined in the Contract Documents.
- Contain all activities required to be completed by others in order for Contractor to complete the Work as defined in the Contract Documents.
- Include the total Scope of Work, whether performed directly by Subcontractor, or subcontracted to a third party.
- Be furnished to Contractor both by hard and on CD Disc or email a compatible file upon initial issue and for each monthly issue.
- Display the Baseline schedule.

Subcontractor's Three-Week Look-ahead Schedule shall be issued to Contractor on a weekly basis, be manpower loaded, and indicate all planned Work to be accomplished during the current week and the next two (2) week period in support of and in accordance with Subcontractor's Detailed Construction Schedule. Planned and actual activities shall also be indicated for the previous week. Any activities that are required to be accomplished by others that would impact and/or prevent Subcontractor from starting and/or accomplishing its planned Work shall also be displayed. The level of detail shall be sufficient to direct the efforts of the craft on a day to day basis.

In addition to weekly updates required by the Subcontract, the Detailed Construction Schedule shall be updated once a month by Subcontractor and submitted to Contractor with a brief narrative describing all assumptions, or changes in activity durations, CPM logic, or resource loading.

Subcontractor shall provide a Systems Turnover Schedule in accordance with Contractor's defined systems. As bulk installation nears completion (approx. 60% to 75% construction complete) Subcontractor shall develop a Systems Turnover Schedule for the Work to-go. Subcontractor shall provide to-go commodity curves for each pertinent system, including but not limited to: Concrete (CY), LB Pipe (LF), SB Pipe (LF), Structural Steel (TN), Cable Tray (LF), Conduit (LF), Cable (LF), Terminations (EA), Loop Checks (EA), Hydrotests (EA), etc.

Once notified in writing by Contractor to correct a schedule deficiency, Subcontractor shall submit, within five (5) working days, a recovery plan in the form of a Revised Detailed Construction Schedule. Subcontractor shall implement the approved recovery plan within three (3) days after written notification from Contractor. If Subcontractor fails to submit its recovery plan or fails to implement

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

the plan within the stated time limits, Contractor may, at its sole discretion, exercise any and all remedies available under this Agreement's General Conditions.

Shortage of manpower, or late delivery by Subcontractor's material or equipment suppliers, shall not be considered cause for delay in completion. If the schedule deficiency occurs through no fault of Contractor, any costs incurred by Subcontractor to implement and maintain the recovery schedule shall be to Subcontractor's account.

Subcontractor shall provide Quantity Curves prior to the start of work. These curves are to reflect planned installed quantities in accordance with Subcontractor's Detailed Construction Schedule. All major commodities should be addressed, including but not limited to: Concrete (CY), LB Pipe (LF), SB Pipe (LF), Structural Steel (TN), Cable Tray (LF), Conduit (LF), Cable (LF), Terminations (EA), Loop Checks (EA), Hydrotests (EA), etc. On a weekly basis Subcontractor shall submit to Contractor actual installed quantities for each of the Quantity Curves.

On a monthly basis Subcontractor shall submit to Contractor a forecast of man hours required to complete the total scope of the Work based on the best information available to Subcontractor at that time. The forecast man hours shall be provided in accordance with (company) Code of Accounts. Subcontractor shall continue to forecast each account monthly until the Work is complete.

PRIORITY OF WORK. Contractor will have the right to decide the time, order, and priority in which the various portions of the Work shall be performed by Subcontractor and others. Subcontractor agrees to comply with any changes by Contractor in the Schedule of Work. Subcontractor shall give the Work the highest priority. No other activities of Subcontractor shall take precedence over the Work.

No allowance for an extension of time for any cause whatever shall be claimed by Subcontractor or be made to it unless Subcontractor shall have made written request upon Contractor for such extension within forty-eight (48) hours after the cause for such extension occurred and unless Contractor and Subcontractor have agreed in writing upon the allowance of additional time to be made. If such extension of time is requested as aforesaid and Contractor and Subcontractor cannot agree thereupon, Owner's Representative shall determine by certificate in writing what, if any, extension of time shall be allowed.

No allowance or extension of time shall in any event be made to Subcontractor for delay by Subcontractor in preparing drawings or in securing approval of Owner's Representative thereto when such drawings are not properly prepared or when Subcontractor by the exercise of reasonable diligence and judgment could have anticipated and avoided the delay. If Owner, with or without cause, shall terminate the Prime Contract, or shall stop or suspend work under the Prime Contract, or if Owner shall fail to pay when due any sum payable under the Prime Contract, Contractor may order Subcontractor to stop or suspend work hereunder, and Contractor shall be liable to Subcontractor for any such stoppage or suspension only if and to the extent that Owner shall be liable to Contractor therefor. Contractor will pay to Subcontractor the value of work that Subcontractor has completed before the work was stopped or suspended, but only if and to the extent that Owner shall have paid Contractor for such work of Subcontractor.

In the event of any dispute or claim between Contractor and Owner which directly or indirectly involves the work required to be performed by Subcontractor under this Subcontract, or in the event of any dispute or claim between Contractor and Subcontractor which directly or indirectly involves a claim against Owner for either additional compensation or an extension of time under the Prime Contract, Subcontractor agrees to be bound to Contractor and Contractor agrees to be bound to Subcontractor to the same extent that Contractor is bound to the Owner by the terms of the Prime Contract disputes clause and by all decisions, findings, or determinations made thereunder by the person so authorized in the Contract Documents, or by an administrative agency or court of competent jurisdiction or arbitration proceeding board, whether or not Subcontractor is a party to the proceedings before said persons, board, agency or court. If any dispute or claim is prosecuted or defended by Contractor and Subcontractor is not directly a party or litigant, Subcontractor agrees to cooperate fully with Contractor and to furnish all documents, statements, witnesses and other information required by Contractor for such purpose and shall pay or reimburse Contractor for all expenses and costs, including reasonable attorneys' fees incurred in connection therewith to the extent of Subcontractor's interest in such claim or dispute. It is expressly understood and agreed in connection with the determination of such claims or disputes that, as to any and all work done and agreed to be done by Subcontractor, and as to any and all materials or services furnished or agreed to be furnished by Subcontractor, and as to any and all damages, if any, incurred by Subcontractor in connection with the Project, Contractor shall never be liable to Subcontractor to any greater extent than Owner is liable to Contractor and only if Subcontractor has complied with the notice and record keeping procedures required by Section 5 hereof.

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

Contractor and Subcontractor agree that all claims, disputes or other controversies relating to this Subcontract which are not pass-through claims to Owner shall be decided by binding arbitration administered by the American Arbitration Association (“AAA”) before a single arbitrator in accordance with the AAA Construction Industry Rules currently in effect, modified as provided herein. The demand for arbitration shall be filed in writing with the other party to this Agreement and with AAA. The arbitration hearing shall be conducted in San Diego County, California. The arbitrator shall apply the law of California to determine the merits of the dispute, and shall apply the AAA rules to determine the admissibility and weight of evidence. An award may be entered against a party who fails to appear at a duly-noticed hearing. The arbitrator shall prepare in writing and provide to the parties an award including factual findings and the reasons on which the arbitrator’s decision is based. The arbitrator shall not have the power to commit errors of law or legal reasoning, and the award may be vacated, corrected or remanded to the arbitrator for any such error on a petition to vacate or correct the award brought under California Code of Civil Procedure section 1285, et seq. The ruling of the Superior Court for the County of San Diego, State of California on such petition shall be final, and no further appeal may be filed by either party. The decision of the arbitrator may be entered and enforced as a final judgment in any court of competent jurisdiction. The arbitrator shall include reasonable attorney’s fees, reasonable expert witness fees and costs (including the arbitrator’s fee) in the award to the prevailing party. The provisions of the Federal Arbitration Act (9 U.S.C. Section 1, et seq.) do not apply to this Agreement or to this agreement to arbitrate. Any dispute regarding the arbitrability of any claim shall be decided by the Superior Court of San Diego County, California and not by an arbitrator.

It is further specifically agreed by the parties hereto that no claim, dispute or controversy shall interfere with the progress and performance of the Work and that Subcontractor shall proceed as directed by Contractor in all instances with the Work under the Subcontract and that any failure of Subcontractor to comply herewith and to proceed with the Work shall automatically be deemed a breach of this Subcontract entitling Contractor to all remedies available in the event of breach. Subcontractor’s sole remedy for an oral instruction to proceed with work that Subcontractor feels is not due from it without extra payment shall be as set forth in Section 5 hereof.

SECTION 10. Subcontractor certifies that it has obtained all necessary qualifications to perform all work under this Subcontract to full and complete satisfaction of the Contractor and all governing agencies. All labor, equipment and materials are to be in compliance with the Project plans and specifications. Subcontractor shall be responsible for its own work, property and /or materials until completion, final acceptance of the Prime Contract and release of responsibility by the Owner, and shall bear the risk of any loss or damage until such acceptance. In the event of loss or damage, Subcontractor shall proceed promptly to make repairs or replacement of the damaged work, property and /or materials at its own expense, as directed by Contractor. Subcontractor waives all rights Subcontractor might have against Contractor for loss or damage to Subcontractor’s work, property or materials, unless caused by the active negligence of the Contractor, it being understood that Subcontractor waives all right of indemnification for damage caused by the passive negligence of Contractor.

SECTION 11. Prior to commencement of construction, Subcontractor shall deliver to Contractor Certificates of Insurance and Additional Insured endorsement evidencing the existence and amounts of insurance required herein. No policy shall be canceled or subject to reduction of coverage except after thirty (30) days prior written notice to Contractor. Subcontractor shall, at all times during the terms of this Agreement and at its own cost and expense, procure and maintain the following insurance coverage and endorsements from insurance companies and forms acceptable to Contractor.

- a. *Commercial General Liability:* Commercial General Liability (CGL) insurance coverage shall be written on Insurance Services Office (“ISO”) Commercial Liability Form CG 00 01 10 93 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, and personal and advertising injury.

The limits of liability shall not be less than:

\$1,000,000 each occurrence (combined single limit for bodily injury and property damage)

\$1,000,000 for personal injury liability

\$2,000,000 aggregate for products/completed operations

\$2,000,000 general aggregate, and such general aggregate shall apply separately to each project.

Contractor, Owner and all other parties required of the Contractor shall be included as insureds on the CGL, using ISO Additional Insured Endorsement CG 20 10 11 85. This insurance for the additional insureds shall be as broad as the coverage provided for the named insured Subcontractor. It shall apply as primary insurance before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the Subcontractor’s Commercial General Liability Policy.

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

Subcontractor shall maintain Commercial General Liability coverage for itself and all additional insureds for the duration of the project, and maintain Completed Operations coverage for itself and each additional insured for at least 4 (four) years after completion of the Work. Completed Operations coverage shall be maintained for at least ten (10) years if the project is residential or habitational.

- b. *Automobile Liability:* Subcontractor shall carry automobile liability insurance, including owned, non-owned and hired coverage with limits of liability of not less than: \$1,000,000 per occurrence (Combined single limit for bodily injury and property damage). Contractor, Owner and all other parties required of the Contractor shall be included as additional insureds.
- c. *Commercial Umbrella or Excess Coverage:* Umbrella and/or Excess Coverage limits must be at least \$5,000,000. This Umbrella or Excess coverage must include as insureds all persons or entities that are required to be named as additional insureds under the General Liability policies. Umbrella or Excess coverage for such additional insureds shall apply as primary before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured other than the Commercial General Liability, Auto Liability, and Employers Liability coverages maintained by the Subcontractor.
- d. *Property Insurance:* Contractor and Subcontractor waive all rights against each other and against all other subcontractors and Owner for loss or damage to the extent reimbursed by Builder's Risk or any other property or equipment insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

Upon written request of the Subcontractor, Contractor shall provide Subcontractor with a copy of the Builder's Risk policy of insurance or any other property or equipment coverage in force for the project and procured by Contractor. Subcontractor shall satisfy itself as to the existence and extent of such coverage prior to commencement of Subcontractor's Work.

If Builder's Risk insurance purchased by Owner or Contractor provides coverage for Subcontractor for loss or damage to Subcontractor's work, Subcontractor shall be responsible for the insurance policy deductible amount applicable to damage to the Subcontractor's Work and/or damage to other work caused by Subcontractor.

If not covered under the Builder's Risk policy of insurance or any other property or equipment insurance required by the Contract Documents, Subcontractor shall procure and maintain at its own expense property and equipment insurance for portions of Subcontractor's work stored off the site or in transit.

If Owner or Contractor has not purchased Builder's Risk or equivalent insurance including the full insurable value of Subcontractor's Work, then Subcontractor may procure such insurance at its own expense as will protect the interests of Subcontractor, and its Subcontractors in the work. Such insurance shall also apply to any of the Owner's or Contractor's property in the care, custody or control of Subcontractor.

- e. *Workers' Compensation and Employers' Liability:* Workers' Compensation Insurance shall be provided in amounts prescribed by law. Employers' Liability limits shall be provided at limits not less than: \$1,000,000 for each accident for bodily injury by accident; \$1,000,000 policy limit for bodily injury by disease; \$1,000,000 each employee for bodily injury by disease. Where applicable, U.S. Longshore and Harbor Workers Compensation Act Endorsement shall be attached to the policy. Where applicable, the Maritime Coverage Endorsement shall be attached to the policy
- f. *Waiver of Subrogation:* Subcontractor waives all rights against Contractor, Owner and Architect/Engineer and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Commercial General Liability, Auto Liability, or Workers' Compensation and Employers Liability insurance maintained as outlined in the requirements above.
- g. *Requirements of the Prime Contract:* If the Prime Contract requires limits of insurance higher than the limits outlined above, or broader coverage than outlined above, the requirements of the Prime Contract shall apply to the extent that they exceed the minimum requirements above.

All insurance shall be provided from carriers with A.M. Best's Rating of A-/VIII or better, and as recognized by the State of California unless more stringent requirements are imposed by Owner or the General Contract. Contractor reserves the right, in its sole and subjective discretion, to reject an insurer and require Subcontractor to obtain policies from another insurer.

Failure of Contractor to enforce in a timely manner any provisions of this Section 11 shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Agreement. Any exceptions to the provisions of this Section 11 must be delineated in the Contract Documents.

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

SECTION 12. Subcontractor shall furnish a Performance Bond in an amount equal to the full Subcontract Price and a Payment Bond in an amount equal to the full Subcontract Price. Such bonds shall be on forms furnished by Contractor and with a Surety selected by Contractor. The cost of such bonds will be paid by Contractor. Subcontractor shall not commence any work until it has furnished same and until said bond has been accepted by Contractor. The performance of work by Subcontractor before furnishing acceptable bonds as required hereunder will be as a volunteer and will constitute a material breach of this Subcontract giving Contractor the right to terminate same without any liability of any kind to Subcontractor.

SECTION 13. (A) INDEMNIFICATION With the exception that this Section 13 shall in no event be construed to require indemnification by Subcontractor to a greater extent than permitted under the statutes or public policy of the State of California, Subcontractor shall defend, indemnify, and save harmless Contractor, including its officers, directors, partners, joint venturers, agents, employees, affiliates, parents and subsidiaries, and each of them, of and from any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, losses or liabilities, in law or in equity, of every kind and nature whatsoever ("Claims") arising out of or in connection with Subcontractor's obligations under this Subcontract, including without limitation Claims for (1) personal injury, including, but not limited to, bodily injury, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Subcontractor, Owner, Contractor, or any other subcontractor and/or damage to property of anyone (including loss of use thereof) caused or alleged to be caused in whole or in part by any act or omission of Subcontractor, its employees, agents, sub-subcontractors and others for whom Subcontractor is responsible, (2) damages and penalties imposed on account of the violation of any law, order, citation, rule, regulation, standard, ordinance or statute, caused by the action or inaction of Subcontractor, (3) infringement of any patent rights which may be brought against the Contractor arising out of the Work, (4) claims and liens for labor performed or materials used or furnished to be used in performance of the Work, including all incidental or consequential damages resulting to Contractor from such claims or liens, (5) Any violation or infraction by Subcontractor of any law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, including, but not limited to, the use of Contractor's or others' equipment, hoists, elevators, or scaffolds, and (6) Subcontractor's failure to comply with any of the terms of this Agreement or of the Contract Documents.

The indemnification requirements of this Section 13 shall extend to Claims occurring after this Subcontract is terminated as well as while it is in force. Such indemnity provisions apply to the fullest extent permitted by law, regardless of any passively negligent act or omission of Contractor, or its agents or employees. Subcontractor, however, shall not be obligated to indemnify Contractor for Claims arising from the active negligence, sole negligence, or willful misconduct of Contractor, or its agents, employees or independent contractors who are directly responsible to Contractor, or for defects in design furnished by such persons, or for Claims that do not arise out of the Work. Except as otherwise provided by the statutes or public policy of the State of California, Subcontractor's obligations under this Section 13 do not affect, and are not affected by, the insurance required of Subcontractor pursuant to Section 11.

With respect to Claims by an employee of Subcontractor, anyone directly or indirectly employed by Subcontractor or anyone for whose acts it may be liable, the indemnification obligation under this Section 13 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

Subcontractor shall promptly pay and satisfy any judgment or decree that may be rendered against Contractor or its agents or employees, or any of them, arising out of any Claim covered by this Section 13.

(B) DEFENSE OF CLAIMS With respect to any Claims against Contractor as to which Subcontractor owes to Contractor a defense obligation, Subcontractor, having considered its options available at law, hereby elects to proceed under California Civil Code Sections 2782(e)(2) and/or 2782.05(e)(2), and further agrees that upon final resolution of any such Claim, any reimbursement for defense fees and costs previously paid by Subcontractor shall be governed by such provisions of the California Civil Code and the provisions of Section 9. Subcontractor shall, at Subcontractor's own cost, expense and risk, defend (with counsel designated by Contractor) all Claims as defined in this Section 13 that may be brought or instituted by third persons, including, but not limited to, governmental agencies or employees of Subcontractor, against Contractor, subject to the provisions of Civil Code Sections 2782(e) (2) and/or 2782.05(e) (2). Subcontractor shall reimburse Contractor or its agents or employees for any and all legal expense incurred by any of them in connection herewith or in enforcing the indemnity granted in this Section 13.

Subcontractor additionally obligates itself to the Contractor in the following respects (and this Agreement is made upon such express condition) to wit:

- a. To pay for all materials, equipment, including repairs thereof and parts, fuel and labor, including sales taxes and other taxes, ordered for or used in the project by Subcontractor, and shall suffer no claim of lien or statutory withholding notice to be filed or served with respect to the Subcontract Work, and shall present, on demand, to Contractor satisfactory evidence of any such payment;

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

- b. The Subcontractor warrants and guarantees the work and materials covered by this Subcontract and agrees to make good, at Subcontractor's own expense, any defect in materials or workmanship, including the restoration of work of the Contractor or other Subcontractors that has been affected thereby, and further agrees that 1) on demand of the Contractor, Subcontractor will furnish and pay for a maintenance bond to indemnify Contractor for any loss that may be caused by breach of said warranty and guarantee; and on demand, the Subcontractor shall furnish and pay for all written guarantees and/or maintenance bonds required by the Contract Documents and/or Specifications in connection with said Subcontractor's Work, and 2) unless and until the Contractor is released from responsibility by Owner, Contractor may withhold payment from Subcontractor such sums as, at Contractor's sole discretion, are necessary to indemnify Contractor for any loss that may be caused by breach of said warranty or guarantee;
- c. The Subcontractor assumes towards the Contractor all the obligations and responsibilities that the Contractor assumes towards the Owner as set forth in the Prime Contract with Owner, including all conditions, drawings, specifications and addenda thereto and other documents hereinabove referred to insofar as applicable, generally or specifically, to the materials to be furnished and the Work to be performed under this Subcontract;
- d. Subcontractor agrees to obtain and pay for all permits, licenses, and official inspections made necessary by its Work and to comply with all laws, ordinances and regulations bearing on its Work and the conduct thereof; and
- e. Subcontractor shall be fully and exclusively responsible for, and shall pay when due, any and all applicable contributions, allowances or other payments or deductions, however termed, required by union labor agreements and/or required by law now or hereafter in force.

SECTION 14. Whenever it may be useful or necessary to the Contractor to do so, the Contractor shall be permitted to occupy and/or use any portion of the Work which has been either partially or fully completed by the Subcontractor before final inspection and acceptance thereof by the Owner, but such use and /or occupancy shall not relieve the Subcontractor of its guarantee of said Work and materials nor of its obligation to make good, at its own expense, any defect in materials and workmanship which may occur or develop prior to Contractor's release from responsibility by the Owner, provided, however, the Subcontractor shall not be responsible for the maintenance of such portion of the Work as may be used and/or occupied by the Contractor, nor for any damages thereto that are due to or caused by the sole negligence of the Contractor during such period of use. Subcontractor agrees that if it shall cause any stains, blemishes, imperfections, marks or damage of any sort whatsoever, whether to its Work or to the work of Contractor or to the work of another subcontractor, it will immediately remedy the damage so caused and to the satisfaction of Contractor. Subcontractor further agrees when so required by Contractor to do any and all cutting and patching necessary in connection with Subcontractor's portion of the work that such cutting and patching shall match other work performed under the Prime Contract with Owner. If any part of the Work depends upon the work of others, Subcontractor shall promptly inspect such work and promptly provide Contractor written report of any defects which prevent Subcontractor from properly performing the Work. If Subcontractor fails to promptly inspect and report defects, Subcontractor shall be deemed by Contractor to have accepted such other work as satisfactory and proper.

SECTION 15. It is understood and agreed that the Work provided for in this Subcontract constitutes only a part of the work being performed for the Owner by the Contractor and other subcontractors. The Subcontractor therefore agrees to perform the Work called for in this Subcontract in such a manner that it will not injure or damage any other work performed by the Contractor or any other subcontractor, and further agrees to pay the Contractor for any damage that may be caused to such other work by the Subcontractor or by his agents or employees. Contractor and its sureties shall have the express right to set-off any amounts that may be due and owing from Subcontractor to Contractor under this Subcontract or any other agreement between the parties, oral or written, against any amounts that may be due and owing to Subcontractor under this Subcontract or any other agreements between the parties, oral or written, and/or any bonds written in connection with such agreements.

SECTION 16. The Subcontractor specifically agrees that it is, or prior to the start of Work hereunder will become, an independent contractor and an employing unit subject, as an employer, to all applicable Unemployment Compensation Statutes and Federal and State Statutes relating to payroll retention and contributions so as to relieve the Contractor of any responsibility or liability for treating Subcontractor's employees as employees of the Contractor for the purpose of keeping records, making reports and payment of Unemployment Compensation taxes or contributions or payroll contributions and retentions; and the Subcontractor agrees to indemnify and hold the Contractor harmless and reimburse it for any expense or liability incurred under said statutes in connection with employees of the Subcontractor, including a sum equal to benefits paid to those who were Subcontractor's employees, where such benefit payments are charged to the Contractor under any Merit Plan or to its individual Reserve Account pursuant to any State Unemployment Compensation statute, regulation or requirement.

MACRO-Z-TECHNOLOGY COMPANY (MZT)

SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

The Subcontractor further agrees as regards (a) the production, purchase and sale, furnishing and delivering, pricing and use or consumption of materials, supplies and equipment, (b) the hire, tenure or conditions of employment of employees and their hours of work and rates of and the payment of their wages, and (c) the keeping of records, making of reports, and the payment, collection, and/or deduction of Federal, State and Municipal taxes and contributions, that the Subcontractor will keep and have available all necessary records and make all payments, reports, collections and deductions, and otherwise do any and all things so as to fully comply with all Federal, State and Municipal laws, ordinances and regulations in regard to any and all said matters insofar as they affect or involve the Subcontractor's performance of this Agreement, all so as to fully relieve Contractor from and protect it against any and all responsibility or liability therefore or in regard thereto.

SECTION 17. The words "Owner's Representative" as used herein refer to the person appointed by the Owner to supervise the work in behalf of the Owner.

SECTION 18. Any assignment, subletting or delegation, by operation of law or otherwise, in whole or in part, by Subcontractor of this Subcontract, of the Work to be performed or of any claims arising hereunder without the prior written consent of Contractor shall be void. Contractor shall not recognize or be bound by any assignment of any right to payment earned or to be earned by performance hereunder by Subcontractor unless and until Contractor shall receive written notice which reasonably proves the assignment and identifies the rights assigned. Any assignment hereunder shall be subject to, and Contractor reserves, all rights and remedies possessed by or available to Contractor by law or under this Subcontract as against Subcontractor, its sureties and assigns, including, without limitation, rights of set-off, to retain moneys, to amend or modify this Subcontract, and to assert all other defenses and claims whether or not arising under this Subcontract. The making of any assignment by Subcontractor or any consent thereto by Contractor shall in no event relieve Subcontractor, or its Sureties hereunder, of any of their obligations, duties, responsibilities or liabilities.

SECTION 19. Subcontractor shall comply fully with all applicable laws, orders, citations, rules, regulations, standards and statutes pertaining with occupational health and safety, the use and storage of hazardous materials, accident prevention, and safety equipment and practices. Subcontractor shall also comply with any accident prevention and safety program established by Contractor and/or Owner for the project. Subcontractor shall conduct its own investigations to determine and satisfy itself that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for its employees and for employees of its subcontractors and suppliers of material and equipment, for the adequacy and required use of all safety equipment and for full compliance with the aforesaid laws, orders, citations, rules, regulations, standards and statutes. Upon Contractor's request, Subcontractor shall furnish at no expense to Contractor any plans or programs Subcontractor has established for health, safety, and accident prevention.

If, in connection with its performance of work on the project, Subcontractor intends to use or supply any material or mixture which is designated as hazardous substance under any laws of regulations applicable to the Work, Subcontractor shall comply with all requirements of said laws and regulations and, in the use of any such substance, shall strictly adhere to all manufacturer's warnings and application instructions. Subcontractor shall notify Contractor of any hazardous substance that Subcontractor intends to supply to or use on the project and shall furnish, at its own expense, any information which may be requested by Contractor concerning such substance.

SECTION 19A.

- a. The Subcontractor shall provide and maintain safe work environments and procedures which will:
 - (1) Safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Subcontractor operations and activities;
 - (2) Avoid interruptions of Government operations and delays in project completion dates; and
 - (3) Control costs during the performance of this Agreement.
- b. For these purposes, on contracts for construction or dismantling, demolition, or removal of improvements, the Subcontractor shall:
 - (1) Provide appropriate safety barricades, signs, and signal lights;
 - (2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and
 - (3) Ensure that any additional measures the Contractor determines to be reasonably necessary for these purposes are taken.

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

- c. If this Subcontract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Subcontractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.
- d. Whenever Contractor becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, Contractor shall notify the Subcontractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Subcontractor or the Subcontractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Subcontractor shall immediately take corrective action. If the Subcontractor fails or refuses to promptly take corrective actions, Contractor may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Subcontractor shall not be entitled to any equitable adjustment of the Subcontract Price or extension of the performance schedule on any stop work order issued under this clause. Further, the Subcontractor shall be liable for all costs to Contractor arising from a noncompliance with these requirements which results in a stop order issued by the Owner's Representative or the Contracting Officer.
- e. The Subcontractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in all subcontract agreements and purchase order agreements on this project.
- f. The Subcontractor shall conduct weekly "tool box" safety meetings and submit week safety reports in a format reasonably requested by Contractor.

SECTION 20. When drawings, plans, specifications, samples or detail work shall be required by this Subcontract, or shall otherwise be required by Contractor to be submitted by Subcontractor, whether on account of work required to be done hereunder or on account of changes in work, Subcontractor agrees to promptly supply the same to Contractor's main office. In the event any or all of said drawings, plans, specifications, samples or detail work shall be submitted by Contractor to Owner's Architect or Engineer for approval, it is specifically understood that such approval shall relate solely to general conformity with the job plans and that such approval shall not be construed as an approval in detail of conformity of such drawings, plans, specifications, samples or detail work with the design drawings or the specifications of the job. In the event that such drawings, plans, specifications, samples or detail work as submitted by Subcontractor, whether or not they shall be approved by Owner's Architect or Engineer, shall deviate from or be inconsistent with in any particular the design drawings or the specifications of the job, and in the further event that any such deviations or inconsistencies shall impose upon Contractor any expense because of delays or extra work or otherwise, Subcontractor agrees to hold Contractor harmless from and to indemnify Contractor for any such expense. It is further agreed that should any such expense be imposed upon Contractor, Contractor may, at its option, withhold from Subcontractor any payments due or to become due to Subcontractor an amount sufficient to fully reimburse Contractor for any such expense. The provisions of this paragraph are in addition to and not in lieu of the remedies provided Contractor by Section 3 of this Subcontract. If such funds are withheld, Subcontractor shall be entitled to interest only to the extent that Contractor can recover same from Owner.

SECTION 21. Contractor will set such stakes as Contractor determines to be necessary to establish the lines and grades for the completion of the Work specified in Section 2. Subcontractor shall give Contractor not less than two (2) working days written notice in advance of the commencement of the operations of Subcontractor which require such stakes. Such stakes shall be carefully preserved by Subcontractor. If such stakes are destroyed or damaged they will be replaced at Contractor's earliest convenience. Subcontractor will be charged with the cost of such replacement if, in Contractor's judgment, the stakes were carelessly or willfully destroyed or damaged by Subcontractor's operations, or were destroyed, damaged or removed by third parties during a delay in the commencement of Subcontractor's operations.

SECTION 22. Written notice, where required by the terms of this Subcontract, may be accomplished by personal service of said notice, by use of the United States mail, by facsimile transmission, or by any standard form of telegraphic communication. The written notice shall become effective upon receipt by the party being served. Personal service may be made by delivering the notice to the senior representative of the party at the project site or to a person in charge at the office address of the party set forth in this Agreement. Service by mail, facsimile transmission or telegraphic communication shall be sent to the party at its office address set forth herein.

Personal delivery is complete when the notice is delivered to the Subcontractor or its representative at the project or at the office address of the Subcontractor appearing in this Subcontract. The Subcontractor shall at all times during its work on this project have a representative authorized to receive written notices present on the project site during all normal working hours. In the absence

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

of such a representative, personal delivery is complete when the notice is delivered to any Subcontractor's supervisor or workman, or in their absence, left in a conspicuous place on the project site in the area of Subcontractor's work.

SECTION 23. Subcontractor, to the extent permissible under Federal and any applicable State Laws, shall comply with, observe, and be bound by all the terms and provisions of any labor agreements executed by Contractor or on Contractor's behalf, specifically including the terms and provisions of any such agreements providing (a) for the assignment of work or the settlement of jurisdictional disputes through the Rules, Regulations and Procedures of the National Joint Board for Settlement of Jurisdictional Disputes in the Building and Construction Industry or any other agreed method for the determination of work assignments or the settlement of jurisdictional disputes, (b) for the adjustment of any other disputes or grievances, (c) for hiring and union security and (d) for making of payments into and under health and welfare or other fringe benefit funds or plans, to the extent that the terms and provisions of such agreements can legally be applied to the Work to be done hereunder. Subcontractor agrees that if any portion of such work is further subcontracted, such sub-subcontractor shall be bound by and observe the terms and provisions of such agreements to the same extent as is herein required of Subcontractor, and that an express provision imposing such obligation upon the sub-subcontractor shall be included in any such sub-subcontract. Subcontractor will indemnify, defend and save Contractor harmless from and against any liability, claim, loss, damage or cause of action resulting in any way, directly or indirectly, from his failure to comply with the requirements of this paragraph.

The wages and working conditions of Subcontractor shall be of the same standard as those for Contractor and shall be subject to Contractor's approval, and shall also comply with all requirements regarding wages and working conditions set forth in Contractor's Prime Contract with Owner. Subcontractor acknowledges that it must pay prevailing wages to its employees for work performed under this Subcontract, and that it must submit certified payroll reports to Contractor on a weekly basis. By its signature on this Subcontract Subcontractor acknowledges its receipt of a copy of the provisions of Labor Code sections 1771, 1775, 1776, 1777.5, 1813 and 1815, which are contained in Attachment "B" to this Subcontract.

To the best knowledge and belief of the parties, this Subcontract now contains no provision that is contrary to Federal or to State Law or any ruling or regulation of Federal or State agency. Should, however, any provision of this Subcontract at any time during its term be in conflict with any such law, ruling or regulation, then such provision shall continue in effect only to the extent permitted and without affecting the remainder of the Subcontract. In the event any provision of this Subcontract is thus held inoperative, the remaining provisions of this Subcontract shall nevertheless remain in full force and effect to the extent permitted by law.

SECTION 24. In the event the Prime Contract is terminated prior to its completion, Subcontractor shall be entitled to payment only as follows: (a) that percentage of the Subcontract Price corresponding to the percentage of Work actually completed, as reflected on the Schedule of Values submitted by Subcontractor and approved by Contractor, or, at Contractor's sole discretion, (b) the cost of the Work actually completed in conformity with this Agreement, plus five percent (5%) of such cost for overhead and profit. The provisions of this paragraph shall govern over any inconsistent provisions of the Contract Documents. Nothing herein contained shall require Contractor to make any claim against Owner for such additional compensation or damages in the event of termination before completion, and it is specifically agreed that the failure of Contractor to prosecute any such claim against Owner shall not entitle Subcontractor to any claim for additional compensation or damages against Contractor.

SECTION 25. The performance of Subcontractor's Work may be terminated at any time in whole, or from time to time in part, by Contractor for Contractor's convenience. Any such cancellation or termination shall be effected by delivery to Subcontractor of a written notice ("Notice of Termination") specifying the extent to which performance of Subcontractor's Work shall be terminated and the date upon which termination shall become effective. Upon receipt of Notice of Termination, Subcontractor shall: (a) suspend its Work on the date and to the extent specified in the Notice of Termination; (b) place no further orders or subcontracts for services, equipment or materials except as are required to complete any portion of its Work not subject to the Notice of Termination; (c) terminate all purchase orders, subcontracts and other agreements relating to that portion of its Work subject to the Notice of Termination; (d) if required by Contractor, assign to Contractor all the right, title and interest of Subcontractor in purchase orders, subcontracts and/or other agreements relating to that portion of its Work subject to the Notice of Termination; (e) provide Contractor with Lien Release(s) and Bond Claim Waiver(s) in forms prescribed by Contractor for Subcontractor and each of Subcontractor's lower tier subcontractors, suppliers and/or equipment suppliers affected by the Notice of Termination; and (f) deliver to Contractor, when and as directed by Contractor, all documents and all property which, if Subcontractor's Work had been completed, Subcontractor would be required to account for or deliver to Contractor and transfer title to such property to Contractor to the extent not already transferred. Upon termination, Subcontractor shall be entitled to recover from Contractor payment only as follows: (a) that percentage of the Subcontract Price corresponding to the percentage of Work actually completed, as reflected on the Schedule of Values submitted by Subcontractor and approved by Contractor or, at Contractor's sole discretion, (b) the cost of the Work actually completed in conformity with this

MACRO-Z-TECHNOLOGY COMPANY (MZT)

SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

Agreement, plus five percent (5%) of such cost for overhead and profit. The provisions of this Section 25 shall govern over any inconsistent provisions of the Contract Documents.

SECTION 26. Subcontractor shall perform its Work as herein required so that the premises shall at all times be neat, orderly and free from debris. Upon termination or completion of its Work, Subcontractor agrees to timely remove all unused materials and all equipment, utilities and facilities furnished by Subcontractor, to timely clean up all refuse and debris, and to leave the premises clean and in good condition.

SECTION 27. Waiver by Contractor of any breach hereof by Subcontractor shall not constitute a waiver of any subsequent breach of the same or any other provision hereof. If any provision of this Subcontract, or any part thereof, shall at any time be held to be invalid, in whole or in part, under any applicable Federal, State, Municipal or other law, ruling or regulation, then such provision shall remain in effect to the extent permitted, and the remaining provisions hereof shall remain in full force and effect.

SECTION 28. Subcontractor shall submit weekly, within four (4) days of the close of that payroll period, one (1) original and one (1) copy of certified payrolls to the Contractor. A certificate of compliance with all local labor code requirements and/or a non-performance statement shall accompany each submittal. Fringe benefit statements shall be provided with the first payroll submission, and thereafter each time the benefits change. Sample certified payrolls and fringe benefit statements are attached.

SECTION 29. The Subcontractor shall submit monthly a letter from each union to which it is signatory stating that the Subcontractor is current with union dues. Executive Order 13201, which requires the notification of employees of their rights concerning the payment of Union dues or fees, is hereby incorporated in its entirety by reference.

SECTION 30. The following documents shall be submitted with executed Subcontract:

- a. IRS Form W9
- b. Copy of State Contractor's License Card, which must be current.

SECTION 31. Project Guidelines

- Material Safety Data Sheets relating to materials to be brought on site must be submitted to Contractor (5) days after the date of this contract due to the short duration of working days.
- Activity Hazard Analysis (AHA's) must be submitted to Contractor 5 days after the date of this contract due to the short duration of working days.
- Subcontractor shall comply with all project plans, specifications, manuals, submittals, etc., that the Contractor is required to comply with under the terms of the Prime Contract (e.g., Health and Safety Manuals/Submittals, Storm Water Pollution Prevention Plans, Environmental, Quality Control, Waste Management Plans). Subcontractor acknowledges that it has had an opportunity to read such documents and that such documents are available for Subcontractor further review on the Project site.
- Prior to onsite activities, Subcontractor shall have a meeting with Contractor to verify all submittals are approved and the scope of work is properly coordinated other trades. This shall be scheduled by the Contractor's onsite representatives.
- Subcontractor shall be responsible to badge all personnel that will be on site. The badging procedures will be pursuant to the facility requirements. No employee shall be allowed on site unless they have approved badging.
- Subcontractor will be responsible for performing their punch list corrections prior to Contractor performing one. All punch list items must be completed prior to acceptance of work.

SECTION 32. Miscellaneous items.

1. Subcontractor shall maintain all public and private roadways clean of its debris at the end of each work shift.
2. Subcontractor shall have at least one (1) authorized representative at the Contractor's monthly safety meetings.
3. Safety equipment and first aid kits shall be provided by the Subcontractor for its own employees. It is the Subcontractor's responsibility to ensure that all items provided comply with all the relevant governing agencies.

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

4. Initial survey control will be provided at no cost to the Subcontractor by the Contractor. Should any additional survey work be required or should it be replaced due to negligence be the Subcontractor, it shall be done at the expense of the Subcontractor.
5. Subcontractor shall provide its own water, air and power facilities as required for its work.
6. Subcontractor shall ensure all materials procured in performing the scope of work are in compliance with the Buy American Act (41 U.S.C. section 10a – 10d, FAR clause 52.225-9), Buy American Act – Construction Materials (Sept 2010) and provision FAR 52.225-10, Notice of Buy American Act Requirement - - Construction Materials (Feb 2009), and the orders and regulations issued thereunder.
7. The Subcontractor shall furnish a list of all lower material suppliers and subcontractors that shall support the scope of work of this Subcontract.

SECTION 33. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of California. Venue for any action or proceeding arising out of this Agreement shall solely be in the Superior Court for the County of San Diego, California. The prevailing party in any action or proceeding shall be entitled to recover its reasonable attorney’s fees and costs of suit from the other party.

Additional Provisions:

See Attachment “A” for Bid Items, Description of Work and Pricing

See Attachment “B” California Labor Code provisions

SECTION 34. It is understood and agreed that Subcontractor’s original proposal and any revisions thereto are not incorporated into or otherwise made a part of this Subcontract Agreement. Subcontractor acknowledges that any and all terms and conditions, scope of work clarifications, and/or exclusions that were contained in said proposal that are germane to this Subcontract have already been incorporated into this Subcontract. Upon execution of this Subcontract, the Subcontractor’s original proposal and all revisions to same are null and void.

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract by their proper officers or duly authorized agents.

By: MACRO-Z-TECHNOLOGY COMPANY
841 E. Washington Ave.
Santa Ana, CA 92701

By: _____

Signature:

Date:

Signature:

Date:

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 YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A Contractor MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.

Contact: _____
Title: _____
Phone: _____
Fax: _____
License No.: _____

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

ATTACHMENT "A" - - Bid Items, Description of Work & Pricing

Attached and incorporated into Subcontract No.: 0000-000

Subcontractor: _____

Project: _____

Contract: _____

Owner: _____

A. SCOPE OF WORK:

- All labor, material, and equipment necessary to furnish, install, and complete the following bid items per plans and specifications and as described in the project Special Provisions:

Item	Description	Total Price
1	SCOPE DETAIL	\$ -
TOTAL CONTRACT AMOUNT:		\$ -

B. INCLUSIONS & CLARIFICATIONS:

- Federal, State and Local taxes are included, if applicable.
- Payment and Performance Bonds are required. Please provide actual bond invoice as well as company invoice to Contractor for reimbursement.
- This Agreement is subject to the provisions of the Davis Bacon Act.
- Submittals are due as soon as possible.
- The Owner, and not Contractor, is the generator of any hazardous materials that need to be removed or have been removed.
- All employees are to follow all rules and regulations and are subject to search while on government property, such as speed limits, seat belts, and smoking laws (no smoking on base). All employees are to wear proper clothing, hard hats and shoes while working on site.

***** End of Attachment "A"**

MACRO-Z-TECHNOLOGY COMPANY (MZT)
SUBCONTRACT AGREEMENT (California)

Job No: 0000

Subcontract No.:0000-000

ATTACHMENT "B" - CALIFORNIA LABOR CODE PROVISIONS

California Labor Code Provisions¹

§1771. Payment of general prevailing rate

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works. This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

§1775. Penalties for violations

(a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than ten dollars (\$10) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than twenty dollars (\$20) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than thirty dollars (\$30) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) When the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

**§1776. Payroll records; retention; inspection;
noncompliance penalties; rules and regulations**

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

¹ All section references are to the California Labor Code.

MACRO-Z-TECHNOLOGY COMPANY (MZT)

SUBCONTRACT AGREEMENT (California)

Job No.: 0000

Subcontract No.:0000-000

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fees and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

(f) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

(g) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(h) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(i) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

§1777.5. Employment of registered apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions

(a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

MACRO-Z-TECHNOLOGY COMPANY (MZT)

SUBCONTRACT AGREEMENT (California)

Job No.: 0000

Subcontract No.:0000-000

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Chief of the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:

(A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and geographic area for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices registered in each program.

(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Division of Apprenticeship Standards.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the Apprenticeship Training Contribution Fund is hereby continuously appropriated for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) All decisions of an apprenticeship program under this section are subject to Section 3081.

§1813. Forfeiture for violation; contract stipulation; report of violations

The contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

§1815. Overtime

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

Subcontractor acknowledges Subcontractor is familiar with the Labor Code requirements above and will comply with them.

*** End of Attachment "B" ***