



TERMS AND CONDITIONS FORMING PART OF SUBCONTRACT

1. This Subcontract between Strategic Account Services, a division of DVL Group, Inc. (hereinafter called the "Contractor") and the party providing to Contractor the labor, services, material, articles and/or equipment under this Subcontract and identified on the front page hereof as the subcontractor (hereinafter called the "Subcontractor") shall, when signed by Subcontractor and Contractor, become the exclusive contract between the parties, and all prior representations or agreements, whether written or oral, not incorporated herein, are superseded. All typographical or clerical errors made by the Contractor on any purchase order, service agreement, or other document are subject to correction.
2. Work performed by Subcontractor shall be undertaken in strict accordance with the principal contract between Contractor and the owner of the project (hereinafter called the "Owner") and all related agreements (the principal contract and all related agreements between Contractor and Owner are referred to collectively as the "Contract Documents") applicable to the work to be performed and the labor, services, materials, articles and/or equipment to be furnished hereunder. Subcontractor shall be bound to Contractor by the terms of this Subcontract and by the provisions of the Contract Documents and shall assume towards Contractor all of the obligations and responsibilities with respect to the work to be performed hereunder, or materials to be provided by Subcontractor, which Contractor, by the Contract Documents, assumes towards Owner. Subcontractor shall perform all work normally construed to come within the scope of its activities, as required of the Contractor under the Contract Documents. All work shall be performed to the complete satisfaction of the Contractor, and Owner.
3. Terms of payment: Unless otherwise stated will be NET 30. Invoice schedule as agreed to and defined on applicable Subcontract Agreement or Purchase Order documents.
4. To the fullest extent permitted by law, Subcontractor, as a condition precedent to payment hereunder, shall furnish all necessary releases, lien waivers, affidavits and other documents required by Contractor to keep Owner's premises, upon which the project is located, free from liens or claims for liens of all suppliers, subcontractors or laborers, as well as complete waivers and releases of any and all claims of any party connected with or related to the performance of this Subcontract. Acceptance of final payment by Subcontractor shall be a full and complete discharge and release of Contractor. No payment, including final payment, shall be construed to be an acceptance by Contractor or Owner of defective work or improper materials.
5. Subcontractor hereby agrees to make prompt payment to all parties furnishing labor, services, materials, articles and/or equipment to Subcontractor in the execution of the work hereunder, and such prompt payment is of the essence of this Subcontract. As a condition precedent to Contractor's obligation to make payments to Subcontractor hereunder, Contractor shall have the right to require evidence reasonably satisfactory to it of the payment by Subcontractor of all of its indebtedness incurred for labor, services, materials, articles and/or equipment, directly or indirectly, provided by subcontractors and/or suppliers of Subcontractor in furtherance of this Subcontract. In the event Subcontractor or its subcontractors or suppliers, or any party acting through or under it or them, fails to pay any sum of money due any party furnishing such labor, services, materials, articles and/or equipment hereunder, Contractor is hereby authorized to retain out of any payment due or to become due hereunder said unpaid sum and to pay the same directly to the party to whom such sum is due.
6. Subcontractor, for the price provided in this Subcontract, hereby accepts and assumes exclusive liability for, and shall defend, indemnify and save Contractor harmless against, the payment of all benefit contributions, taxes (including Social Security taxes), or premiums for unemployment insurance or workers' compensation, measured upon the payroll, income, wages, salaries or other compensation of employees, by whomsoever employed or engaged in the performance of the work included in this Subcontract, and all sales, use or other taxes levied or assessed against Owner, Contractor, or Subcontractor, arising from the performance of this Subcontract, including but not limited to taxes on any kind of materials, articles or equipment.
7. Indemnification: Subcontractor agrees to defend, indemnify and hold harmless the Contractor and the Owner from and against all claims, demands, liabilities, interest, loss, damage, fines, penalties, attorneys' fees, costs and expenses, of whatever kind or nature, whether for property damage or for personal injuries (including death) to any and all persons (whether such persons are employees of the Contractor or employees of Subcontractor, or employees of the Subcontractor's subcontractors or other others), which result from, arise out of, or occur in connection with, (i) the work covered by this Subcontract (whether performed by Subcontractor or by Subcontractor's subcontractors or others) including, but limited to, claims due or partially due to the negligence of the Contractor or Owner, or to any defect in material, equipment or workmanship relating to the work undertaken by Subcontractor hereunder, whenever the same may develop, (ii) the failure to furnish or pay for all necessary permits, licenses and inspection fees as called for in the Contract Documents or with respect to the work under this Subcontract, or (iii) the failure to pay all royalty and license fees arising from the work covered by this Subcontract. Subcontractor further agrees to defend, indemnify and hold harmless the Contractor and the Owner from any and all manner of claims, damages or suits for infringement or violation of patents or patent rights including all costs and expenses (including attorney's fees) which the Contractor and/or the Owner may incur or sustain in connection with the same. In any and all claims against the Owner, the Contractor, other contractors or subcontractors, or any of their respective agents or employees, by any employee of the Subcontractor, anyone directly or indirectly employed by the Subcontractor or anyone for whose acts the Subcontractor may be liable, the indemnification under this paragraph 7 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under workers' compensation acts, disability benefit acts or other employer benefit acts.
8. Insurance requirements: Subcontractor shall procure and maintain, at its own expense, the following insurance: Workers' Compensation, including Occupational Disease insurance satisfying statutory requirements and containing employers' liability insurance in an amount of at least \$500,000 per occurrence; Comprehensive General Liability, including Independent Contractors, Broad Form Contractual Liability, Personal Injury, Broad Form Property Damage, unless otherwise stated on this Subcontract, in the following limits: Bodily Injury \$1,000,000 per occurrence, Property Damage \$1,000,000 per occurrence, and \$2,000,000 General Aggregate; Comprehensive Automobile Liability, in the following limits: Combined single limit of \$1,000,000 for each occurrence, and such other insurance as the Contractor or Owner may require in amounts satisfactory to the Contractor. Before commencing work or delivering any material, articles and/or equipment, Subcontractor shall furnish a certificate or certificates to the Contractor establishing that all the insurance coverages required hereunder are in force and that they will not be cancelled with less than 10 days written notice to Contractor and Owner, and naming Contractor (and Owner if required) as an additional named insured. Failure of Contractor to require the production of such certificates of insurance shall not absolve Subcontractor of its obligation to obtain such coverages.

9. Confidential information: Standard of Protection. Subcontractor understands and agrees that in the performance of this Subcontract, Subcontractor, its employees, and subcontractors may have access to private or confidential information of Owner, including but not limited to trade secrets, marketing and business plans, customer lists, financial information, personnel information, technical information, designs, processes, formulas and procedures (collectively, "Confidential Information"). Subcontractor agrees that: (i) all Confidential Information shall remain the exclusive property of Owner; (ii) it shall maintain, and shall use prudent methods to cause its employees, agents and subcontractors to maintain, the confidentiality and secrecy of the Confidential Information, and shall use the Confidential Information solely in connection with its duties and obligations under this Subcontract; (iii) it shall limit disclosure and copies of the Confidential Information to its employees, agents and subcontractors who must have access thereto in order to perform under the Subcontract; (iv) it shall use prudent methods to ensure that its employees, agents and subcontractors do not, copy, publish, disclose to others, use (other than pursuant to the terms hereof) or create any derivative works based upon the Confidential Information; and (v) it shall return or destroy all copies of Confidential Information upon request of Owner. Subcontractor will immediately notify Contractor and Owner of any unauthorized disclosure or use of Confidential Information that becomes known to Subcontractor and will cooperate with Contractor and Owner in an effort to terminate and remedy such unauthorized acts. Notwithstanding the foregoing, Confidential Information shall not include any information to the extent it (i) is or becomes a part of the public domain through no act or omission on the part of Subcontractor, its agents or subcontractors; (ii) is disclosed to third parties by Owner without restriction on such third parties; (iii) is in Subcontractor's possession, without actual or constructive knowledge of an obligation of confidentiality with respect thereto, at or prior to the time of disclosure under this Subcontract, as evidenced by written records; (iv) is disclosed to Subcontractor by a third party having no obligation of confidentiality with respect thereto; or (v) is independently developed by Subcontractor without reference to Owner's Confidential Information or other proprietary information of Owner, as evidenced by written records. Nothing herein shall prevent Subcontractor from complying with a legal obligation to disclose Confidential Information so long as Subcontractor (i) provides Contractor and Owner with prompt notice of its intent to disclose (or to resist disclosure), (ii) takes reasonable steps to require the recipient to preserve the confidential nature of the information once disclosed, and (iii) affords Owner the opportunity to attempt to prevent the disclosure (whether or not Subcontractor has sought to resist disclosure) or obtain protection for the information disclosed. Upon the expiration or termination of this Subcontract for any reason, Subcontractor at its expense, shall promptly return to Contractor or Owner all copies of the Confidential Information.

10. Non-Disclosure: Subcontractor shall not at any time, use Owner's name as a reference or publish or reveal information about Owner's use of information technology products and/or services, or disclose information about Owner's business plans or activities, without the prior, written consent of Contractor and Owner.

11. Subcontractor shall start work at the site after notice from Contractor and shall supply sufficient materials, workmen and equipment to maintain progress of the work to the satisfaction of Contractor, and perform the same at such times and places as designated by Contractor. In the event the Subcontractor delays the progress of the work or the furnishing of materials, articles and/or equipment, or fails to make prompt payment to its workers, subcontractors or suppliers, or fails in the performance of any of the provisions of this Subcontract, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency or inability to meet its obligations, or if a petition in bankruptcy is filed by or against Subcontractor, Subcontractor shall be deemed in default of this Subcontract, and Contractor shall have the right to terminate this Subcontract after providing Subcontractor five days' written notice within which to cure the event giving rise to the default, mailed by Certified Mail, or personally delivered, to Subcontractor at its last known address. In case of such termination, Contractor, in addition to other remedies available to it at law or equity, may take possession (and for this purpose Subcontractor does hereby assign title thereto) of all of the materials, tools and equipment of Subcontractor on said premises and finish the work by whatever method Contractor may deem expedient, and Subcontractor shall not be entitled to receive any further payments under this Subcontract until the performance of the Subcontract has been completed by Contractor, or others engaged by Contractor, at which time, if the unpaid balance due Subcontractor exceeds the cost of completion, said excess amount shall be paid to Subcontractor; but if such cost of completion shall exceed such unpaid balance, then Subcontractor shall not be entitled to receive any further payment and Subcontractor shall pay such excess amount to Contractor. The costs and expenses of completion incurred by Contractor shall include all damages and costs incurred by reason of the default of Subcontractor, including all direct and consequential damages for delay.

12. Subcontractor shall clean up and remove from the premises all debris caused by the execution of the work hereunder and will pay for any breakage or damage caused by Subcontractor. Upon failure to remove such debris or to pay for such breakage or other damage, Contractor shall remove said debris and replace property so damaged, and charge the cost thereof to Subcontractor.

13. Contractor will not provide any special hoist or elevator service for raising of Subcontractor's workers or materials.

14. Subcontractor hereby guarantees all labor, materials, articles, equipment and work furnished hereunder against all defects which may develop within one year from date of acceptance by Owner, or within the guarantee period set forth in the Contract Documents, whichever is longer. Subcontractor agrees to repair and/or replace, as Contractor may require, without charge to it, any and all defective workmanship, materials, articles, equipment and work; to pay all costs, including labor charges, in connection with such repairs and/or replacements, and, to remedy any defects, latent or patent, except those due to ordinary wear and tear or improper use or maintenance. Subcontractor shall, in any event, pay for all damage to the property of the Owner resulting from defects in the work and all expenses to remove, replace, and/or repair the work and any other work which may be damaged in removing or repairing the work. All guarantees and warranties herein provided shall extend to Owner or other awarding authority and to Contractor.

15. Subcontractor agrees: (a) That it will not assign this Subcontract or any of the monies due it, or to become due hereunder, nor sublet any portion of the work without first obtaining written consent of the Contractor, and (b) that Contractor shall have the right to set off against any monies due Subcontractor under this Subcontract, any claim or claims against Subcontractor whether arising under this Subcontract or any other Subcontract or Subcontracts between Contractor and Subcontractor.

16. In the event of the termination of the principal contract between Contractor and Owner, this Subcontract shall also be terminated, upon written notice of Contractor to Subcontractor, and Contractor shall only be liable for labor, materials, articles and/or equipment furnished, and/or materials and equipment ordered for the project, up to the date of receipt by Subcontractor of the written notice of termination, but only to the extent Subcontractor is liable for same.

17. It is understood and agreed that Owner has the right to approve or disapprove the engagement of Subcontractor, and in the event that Owner does not approve this Subcontract, this Subcontract shall become null and void.

18. No additions, deductions, or changes shall be made in the work to be provided under this Subcontract, nor shall there be any charges for premium time, except upon the prior written approval of Contractor. Contractor's approval shall specify the adjustment, if any, in the compensation or credit to be applied to the amount of this Subcontract.



19. All disputes, claims or questions arising hereunder shall, at the sole election of Contractor, be decided by arbitration. In the event Contractor elects to arbitrate, such arbitration shall, at the sole election of Contractor, be conducted either in the same manner and under the same procedures as set forth in the principal contract with respect to disputes between the Contractor and Owner, or in accordance with the prevailing Construction Industry Arbitration Rules of the American Arbitration Association. Subcontractor hereby agrees that Contractor shall have the right to include Subcontractor, by consolidation, joinder or in any other manner, in any arbitration proceedings involving the Owner. The award rendered by the arbitrator(s) shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

20. To the fullest extent permitted by law, Subcontractor for itself, its subcontractors and all parties acting through or under it hereby covenants and agrees not to file any liens or to make any claims against the Owner or the premises upon which the project is located, or any part thereof or against any building or buildings or other improvements erected or made or to be erected or made thereon, or against any moneys due or to become due to the Contractor, in accordance with any statute, state or federal, or for any cause whatsoever, and further covenants to release and hereby does release the premises upon which the project is located and each and every part thereof and any and all buildings that may now or hereafter be erected thereupon, and any moneys due or to grow due to the Contractor, from any and every lien, charge or claim of any nature whatsoever that it might otherwise at any time have against the same or any part thereof, for work done or to be done, materials furnished or to be furnished or upon any other ground whatever growing out of or in any way connected with or in relation to the erection or construction of any building or buildings upon the same premises, and Subcontractor agrees to indemnify Contractor and Owner for any and all damages, costs and expenses (including attorneys fees) sustained or incurred in connection therewith.

21. Subcontractor shall not use any information obtained from Contractor or Owner to engage in any fraudulent, deceptive, manipulative or otherwise unlawful practice.

22. Non-Solicitation: During the term of this Subcontract and for a period of one (1) year after the completion or sooner termination of this Subcontract, neither Subcontractor nor any of its affiliates shall, directly or indirectly, without the Contractor's prior written consent, solicit Owner for Owner's purchase from Subcontractor or an affiliate of services and/or materials or types of services and/or materials provided by Contractor under its principal contract with Owner (or provided by Subcontractor hereunder). During the term of this Subcontract and for a period of one (1) year after the completion or sooner termination of this Subcontract, neither Contractor or Subcontractor, nor any of its affiliates shall, directly or indirectly, without the prior written consent of the other party hereto, solicit for employment, offer employment to (other than pursuant to a generally circulated public advertisement), employ, or engage as a consultant, any individual who is then employed, or who was employed within the preceding three (3) months, by the other party and who was in any way involved in the estimating, negotiation, procurement, and/or provision of services or materials, relating to this Subcontract.

23. No discrimination shall be made against any employees, or in the employment of any applicant, because of age, race, sex, color, creed, national origin or disability, and Subcontractor agrees to be bound by and to comply with Section 711(a) of Title VII of the Civil Rights Act of 1964, all Executive Orders dealing with Equal Employment Opportunity, as the same may be amended from time to time, and any and all other federal, state or municipal laws or regulations regarding hiring and employment practices, and further agrees to comply with all of the provisions of the Contract Documents pertaining thereto, including the filing of any and all certificates of compliance or other documents required by any governmental agency.

24. The Subcontractor shall be responsible to the Contractor for compliance with all safety laws, rules and regulations during Subcontractor's performance of work in connection with this project, including, without limitation, those laws, rules and regulations established under the Federal Occupational Safety and Health Act of 1970. Subcontractor shall defend and indemnify the Contractor from and against any and all costs and expenses incurred by Contractor, including fines, penalties and corrective measures resulting from acts of commission or omission by Subcontractor, its subcontractors, suppliers, agents, employees or assigns, relating to their failure to comply with such safety laws, rules and regulations.

25. All work materials, equipment and articles of Subcontractor shall be protected by Subcontractor at its own expense against deterioration, loss, theft, damage and injury and Subcontractor (and not Contractor) shall be responsible therefor until completion and final acceptance of all work under the principal contract between Owner and Contractor.

26. In the event that Subcontractor should delay the progress of the work hereunder so as to cause any damage or loss for which Contractor may become liable, Subcontractor shall indemnify Contractor for all such damages or losses, including consequential damages caused thereby, and such other damages, liquidated or penal, which might be assessed against the Contractor under its principal contract with the Owner as a result thereof.

27. Notwithstanding anything to the contrary contained in the Contract Documents, in the event of a conflict between the provisions of this Subcontract and the provisions of the Contract Documents, the provisions of this Subcontract shall prevail.

28. This Subcontract, together with any riders or exhibits attached hereto, constitutes the entire agreement of the parties hereto and supersedes and rescinds any and all prior understandings between the parties, either written or oral relative thereto. Neither this Subcontract nor any part hereof shall be changed, modified, amended or altered, except in writing signed by the parties hereto.

29. In the event of a breach or threatened breach by Subcontractor of any of the provisions set forth in paragraphs 9, 10 or 22, Contractor shall have the right, and is hereby granted the privilege, of obtaining injunctive relief and/or specific enforcement of such provisions in any court of competent jurisdiction. The party prevailing in any injunctive proceeding or specific performance action shall be entitled to reimbursement from the non-prevailing party for its reasonable legal fees and court costs in enforcing this Subcontract. Contractor also shall have the right to obtain damages in addition to, and not in lieu of, any other remedies as provided in Section 19 above.

ACCEPTED:

CONTRACTOR
Strategic Account Services, LLC

SUBCONTRACTOR
(BUSINESS NAME) _____

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____