



STANDARD SUBCONTRACT AGREEMENT

THIS STANDARD SUBCONTRACT AGREEMENT (hereinafter the "Agreement") is made effective as of _____ by and between **CORPORATE ENVIRONMENTAL RISK MANAGEMENT, L.L.C.**, (hereinafter "CERM" or "Prime Contractor," a Georgia limited liability company having its principal place of business at 1990 Lakeside Parkway, Suite 300, Tucker, GA 30084 and, _____, a _____ of _____.

WHEREAS, CERM will enter into various contract agreements that require _____ with various Owners for certain work to be performed under the direction of CERM and in accordance with the Owner's Prime Contract; and

WHEREAS, CERM and Subcontractor have agreed that Subcontractor shall perform certain services as will be fully set forth in future Subcontract Task Orders;

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the mutual receipt and legal sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. CONTRACT DOCUMENTS

The contract documents shall consist of this Agreement, any attachments hereto, any applicable Prime Contract, and future Subcontract Task Orders.

2. SERVICES TO BE PERFORMED

- a. The Subcontractor agrees to perform all work necessary and required to complete the work as authorized, described, limited and specified, including the furnishing of all materials, equipment and labor (the "Services"), at the location or locations ("Sites"), and as of the completion date or dates, all as specified in each Subcontract Task Order.
- b. Should Owner require a modification of its Prime Contract with CERM, this Agreement will likewise be subject to modification whether such modification be a change in scope of the project, fee, time schedule or otherwise. In that event, should CERM and Subcontractor fail to agree upon a modification to the Subcontract Task Order, CERM shall have the option of terminating the Subcontract Task Order and Subcontractor's Services hereunder at no additional cost other than the payment to Subcontractor, in accordance with the terms of this Agreement, for the Services properly performed by Subcontractor prior to such termination date.

3. TIME OF COMMENCEMENT AND COMPLETION OF WORK

Subcontractor shall commence performance of the Services upon the date specified in the Subcontract Task Order and shall complete performance of all Services on or before the completion date specified in the Subcontract Task Order.

4. PAYMENT FOR THE WORK

- a. CERM shall pay Subcontractor within thirty (30) days of receipt of payment by CERM from the Owner, for all Services authorized and properly performed at the rates stated on the Cost Proposal subject to additions or deletions for changes or extras agreed upon in a writing signed by an authorized agent of CERM.
- b. Subcontractor shall submit monthly invoices to CERM by the fifth (5th) day of each month for charges for Services performed in the prior month. CERM shall have no obligation to pay for Services invoiced later than sixty (60) days (or sooner as reasonably necessary to comply with Owner requirements) after the date of completion of the Services or any portion thereof.
- c. CERM's payment obligations are conditioned upon Subcontractor's timely and proper performance of its Services. In the event of any dispute between CERM and Subcontractor, CERM may withhold disputed funds and Subcontractor shall continue performance of its Services until such dispute is resolved.
- d. Before submitting its first invoice, Subcontractor shall submit a completed and signed W-9 tax withholding form to CERM. If the Subcontractor does not provide a W-9 form, payment to the Subcontractor may be withheld or delayed contingent upon receipt of the W-9 form.
- e. Partial payment will be made based on monthly billings upon Subcontractor's submission of invoices with reasonable and customary supporting documents.
- f. Should Owner fail to pay CERM for some or all of Subcontractor's Services, CERM at its sole discretion may either: (a) pursue legal action against Owner in CERM's name; or (b) make partial assignment of its rights to Subcontractor and allow Subcontractor to pursue Owner for funds otherwise due Subcontractor. Should CERM make such assignment, CERM shall have no further obligations to Subcontractor, and Subcontractor's sole recovery of

funds shall be limited to that amount which Subcontractor recovers from Owner. Should CERM pursue legal action in its own name, and the funds sought include monies that would otherwise be owed to Subcontractor, Subcontractor shall: (i) fully cooperate with CERM; (ii) pay its proportionate share of such legal action (including attorneys' fees); and (iii) only be paid its proportionate share of funds recovered from Owner.

- g. CERM may withhold retainage from any payment to the same extent that retainage is withheld from CERM by Owner.
- h. Payment shall be in accordance with the rates specified in the Subcontract Work Order.

5. TRUTH OF REPRESENTATIONS

Subcontractor warrants that each and every representation made to CERM, either orally or in writing, is true, and Subcontractor agrees that the truth of such representations is a condition precedent to each and every covenant and obligation of CERM hereunder, including the covenant to pay Subcontractor.

6. INSURANCE

- a. Subcontractor agrees that it now carries, and will continue to carry during the performance of this Agreement, Worker's Compensation and Employer's Liability, Comprehensive General and Contractual Liability, Comprehensive Automobile Liability, and when Subcontractor is rendering professional services, Professional Liability insurance coverage, with limits at or above those described below. Any insurance on a "claims made" basis shall be maintained for at least three (3) years after completion of the Services or any time period required by the Prime Contract, whichever is longer.
- b. **Subcontractor shall provide CERM with certificates of insurance evidencing the required insurance by attaching same to the Agreement upon execution.** Such certificates shall be issued by insurance carrier(s) with an A.M. Best rating of A-, Category VIII, and shall be endorsed to include:
 - i. CERM and Owner as additional insureds on the Comprehensive General and Contractual Liability and Automobile Liability;
 - ii. thirty (30) days prior written notice of cancellation or material change in any of the coverages;
 - iii. a waiver of subrogation as to CERM and Owner by Subcontractor's Worker's Compensation insurance carrier; and
 - iv. a reference to the project name and Owner's contract number in the

Description of Operations section of the certificate.

c. Unless otherwise required by the Owner, minimum required insurance shall include:

(i) Worker's Compensation Statutory
(box checked on Acord form)
Employers' Liability \$1,000,000 per occurrence

(ii) Comprehensive General & Contractual Liability*

*Including, XCU (explosion, collapse, and underground) hazard coverage, premises operations, independent contractors, completed operations, broad form contractual, personal injury and broad form property damage coverages.

Bodily Injury \$1,000,000 per occurrence
\$2,000,000 in the aggregate
Property Damage \$1,000,000 per occurrence
\$2,000,000 in the aggregate
Products/completed \$1,000,000 per occurrence
Operations \$2,000,000 in the aggregate

(iii) Comprehensive Automobile Liability

\$1,000,000 Combined Single Limit for Owned, Non-owned, and Rented/Hired Vehicles

(iv) Professional Liability \$1,000,000 per occurrence
\$1,000,000 in the aggregate

(v) Umbrella/Excess Liability \$4,000,000 each occurrence
\$4,000,000 in the aggregate

d. In the event Subcontractor fails to obtain or maintain any insurance coverage required under this Agreement, CERM may terminate this Agreement for cause.

e. Subcontractor shall include the above insurance requirements in its sub-subcontracts unless CERM consents in writing to a deviation.

7. OBLIGATION OF PRIME CONTRACT

Subcontractor agrees to be bound by all the terms and conditions of the Prime Contract insofar as

each and every part thereof is applicable to this Agreement and to the Services hereunder. Subcontractor expressly assumes toward CERM all the obligations and responsibilities applicable to the Services which CERM assumes toward Owner in the Prime Contract, and Subcontractor agrees that in addition to any other rights and remedies afforded CERM hereunder or by law, CERM shall have the same rights and remedies against Subcontractor with respect to its Services that Owner has against CERM under the Prime Contract.

8. WARRANTY OF QUALIFICATIONS

Subcontractor represents and warrants to CERM that it lawfully possesses and will maintain all necessary licenses, permits, and certifications, and that it is adequately experienced, qualified, equipped, organized and financed to perform the Services hereunder. Subcontractor agrees to furnish proof of any of these qualifications upon CERM's request. Subcontractor further represents and warrants that it has qualified employees in adequate numbers to accomplish the Services by or prior to the completion date specified in the Subcontract Work Order.

9. WARRANTY OF THOROUGH INVESTIGATION

Subcontractor warrants that it has, by careful investigation, satisfied itself as to the nature and location of the Services, the character, quality, and quantity of materials to be encountered, the equipment and facilities needed for performance of the Services, the site location and characteristics, the terms of the Agreement and the scope of Services, and all other matters which in any way may affect the Services.

10. WARRANTY OF SERVICES

Subcontractor warrants that it will perform and complete the Services in a safe and workmanlike manner strictly in accordance with the requirements of the Agreement, specifications, and prevailing standards in the area for similar services, to the extent the specifications do not address a particular issue. Subcontractor warrants that the Services and all materials or equipment supplied for completion of the Services will be free of defects and will conform to the specifications and industry standards. Subcontractor hereby agrees to re-perform any Services which CERM deems unacceptable at Subcontractor's own cost and at no additional cost whatsoever to CERM.

11. COMPLIANCE WITH LAWS

Subcontractor shall comply with all applicable statutes, regulations, and rules concerning the performance of professional and other services, and the handling, processing and disposal of asbestos, hazardous materials, hazardous substances, petroleum products and other substances governed by law or regulation.

12. SAFETY

Subcontractor shall be solely responsible for safety in the performance of its Services and for all

equipment and materials to be used therein. Subcontractor shall properly make safe the area of the Services to prevent any person from being injured and shall in all respects comply with all safety directions of CERM, and with all safety rules and requirements of Owner, with any and all provisions of any law, ordinance, rule or regulation relating to safety, and with the site safety plan.

13. DEALINGS WITH OWNER

Subcontractor shall have only such contacts and dealings with Owner and its representatives as CERM shall explicitly authorize or direct in writing.

14. INTERFERENCE WITH PRIME CONTRACT AND OWNER RELATIONS

Subcontractor agrees that it will not, either directly or indirectly, interfere with or attempt to appropriate CERM's rights under the Prime Contract or any other contract right or business relationship between CERM and the Owner.

15. MUTUAL NON-SOLICITATION

- a. During the term of this Agreement, CERM agrees not to arrange or assist in the employment of any employee of the Subcontractor, or otherwise induce any employee of the Subcontractor to leave the Subcontractor's employ.
- b. Likewise, during the term of this Agreement, the Subcontractor agrees not to arrange or assist in the employment of any employee of CERM, or otherwise induce any employee of CERM to leave CERM's employ.

16. RESULTS AND REPORTS

All reports of results of the Services performed hereunder (including, but not limited to plans, drawings, reports, computations, estimates, surveys, other data or work items, etc.) prepared under this Agreement shall be submitted for approval through CERM. CERM shall have unrestricted ownership of such documents, including the right to use such documents for its own performance under the Prime Contract, to provide such documents as part of its deliverables under the Prime Contract, and to retain file copies for its future reference and use.

17. TERMINATION FOR CONVENIENCE

CERM shall have the right to terminate this Agreement at any time for its convenience, unless done so by Owner, without cause, upon thirty (30) days' written notice to Subcontractor. In the event that CERM so elects to terminate for convenience, Subcontractor shall be entitled to receive payment for all amounts due it for Services provided through the termination date under the payment terms of this Agreement and the Subcontract Work Order. Subcontractor shall not be entitled to unrealized profits on the portion of Services remaining unperformed.

18. TERMINATION FOR CAUSE

This Agreement may be terminated by either party immediately upon written notice should the other party fail substantially to perform in accordance with the terms of this Agreement, any Subcontract Task Order, or the Prime Contract, through no fault of the party initiating the termination. Violation of any law or regulation shall constitute cause.

- a. In the event this Agreement is terminated by Subcontractor, payment to the Subcontractor will be made on the basis of Services satisfactorily performed to the date of termination and on the payment terms and at the rates provided in this Agreement and the Subcontract Work Order. Subcontractor agrees that it will not be entitled to lost profits on that portion of the Services remaining unperformed. Such payment will be due upon delivery to CERM of the results of all Services completed to date, approval thereof by Owner, and within thirty (30) days of receipt of payment for such Services from Owner by CERM, which payment is a condition precedent to CERM's obligation to make payment to Subcontractor.
- b. In the event Subcontractor fails to comply with the requirements of the Subcontract as to the quality or character of the Services, or time of performance, and the failure is not corrected immediately after written notice by CERM to Subcontractor, CERM may at its sole discretion without prejudice to any other right or remedy:
 - (1) Terminate this Agreement as provided above and be relieved of the payment of any further consideration to Subcontractor. In the event of such termination, CERM may proceed to complete the Services in any manner deemed proper by CERM, either by the use of its own forces or by subcontracting to another subcontractor.
 - (2) In either event, Subcontractor shall be liable for the cost to complete the Services herein provided for, over and above what Subcontractor would have been entitled to receive for the completion of said Services.
 - (3) CERM may, without terminating this Agreement or taking over the Services, furnish the necessary materials, equipment, supplies or help necessary to remedy the situation, at the expense of Subcontractor.

19. SUBCONTRACTOR'S BREACH OR DEFAULT

In the event of Subcontractor's default under, or breach, or threatened breach of this Agreement,

CERM shall, in addition to any remedy provided for in this Agreement, be entitled to all remedies otherwise available to it at law or in equity in such circumstance, and no provision of the Agreement shall be construed to restrict or abridge to CERM the rights or remedies generally available to parties aggrieved by default or breach of contract or the threat thereof.

20. INDEMNIFICATION

- a. To the fullest extent permitted by law, Subcontractor agrees to indemnify, defend, and hold harmless CERM and Owner and each of their agents and employees, from all liability, cost, expense, including attorneys' fees, against any and all claims, demands, judgments, losses or damages on account of injuries, disease, or death to any person, including Subcontractor's employees, or damage to property, or any other type of loss (including economic loss or damage) arising out of (or allegedly arising out of) negligence, intentionally wrongful act, performance or breach of obligation under this Agreement, by Subcontractor, its employees, sub-subcontractors, suppliers, agents, or others for whose actions it is responsible, except to the extent that the negligence or fault of the party to be indemnified contributed to the claim, loss, damage, injury or liability; provided, however, that the negligence or fault of the party to be indemnified shall not reduce Subcontractor's indemnification obligation if the negligence or fault of Subcontractor is primary and the negligence or fault of the party to be indemnified consists only in the passive failure to discover and correct problems created by the primary active negligence or fault of Subcontractor.

- b. In addition, (and not by way of limitation), to the fullest extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless CERM and Owner and their employees and agents against all liability, cost, expense, attorneys' fees, claims, loss or damage arising from the following items:
 - (1) A violation by Subcontractor or its sub-subcontractors of any applicable federal, state or local law, rule, or regulation including, without limitation rules and regulations in this Agreement or in the Prime Contract;

 - (2) Any penalty or fine incurred by or assessed against CERM or Owner to the extent caused by Subcontractor, its employees, agents, suppliers, or sub-subcontractors;

 - (3) Any injury, illness, disease, death or other harm suffered or incurred by any employee of Subcontractor, or any employee of Subcontractor's sub-subcontractors or agents, resulting from the failure of Subcontractor, or its employees, sub-subcontractors or agents to comply with applicable health and safety procedures,

regardless of whether or not the Subcontractor has adopted CERM's, Owner's, or EPA safety and health protocols and procedures as required in Section 12 of this Agreement;

- (4) Any patent or copyright infringement by Subcontractor or its sub-subcontractors or suppliers;
- (5) Any lien or other claim by Subcontractor or its sub-subcontractors or suppliers; or
- (6) Any obligation of CERM to Owner resulting from Subcontractor's or its sub-subcontractor's error, omission, or breach of obligation.

21. INDEPENDENT CONTRACTOR

The relationship between CERM and Subcontractor shall be that of Prime Contractor and subcontractor. The Subcontractor is an independent contractor and not an employee or agent of CERM. Other than the consideration set forth herein or in future Subcontract Task Orders, the Subcontractor, its officers, agents, servants, employees, and any sub-subcontractors shall not be entitled to any CERM employee benefits including, but not limited to social security, insurance, paid annual leave, sick leave, worker's compensation or retirement benefits.

22. INDEMNITY FOR LABOR, ETC.

Subcontractor shall defend and indemnify CERM and Owner against and save them and the premises harmless from any and all claims, suits, or liens based upon or alleged to be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation and management costs incurred in performing this Agreement.

23. CHANGES IN WORK

No claims for extra, additional, or changes in the Services will be made by Subcontractor without a written agreement with CERM prior to the performance of such Services.

24. USE OF SUBCONTRACTORS

To the extent that Subcontractor enters into sub-subcontracts, Subcontractor will monitor and supervise each sub-subcontractor's performance and compliance with CERM's and Owner's policies and procedures as amended from time to time, including the maintenance of proper insurance consistent with Section 6 of this Agreement. Subcontractor will remain ultimately liable and responsible, notwithstanding any such sub-subcontracts, for the performance of Subcontractor's obligations under this Agreement. Furthermore, notwithstanding the foregoing, Subcontractor agrees that it shall not subcontract any part of this Agreement without the previous written consent of CERM.

25. EQUAL OPPORTUNITY COMPLIANCE

Subcontractor hereby states that it will not unlawfully discriminate against any employee or applicant for employment with regard to race, color, religion, sex or national origin, ancestry, physical handicap, medical condition, marital status, protected veteran status, or age; that it is in compliance with all applicable federal, state, and local directives and executive orders regarding nondiscrimination in employment; and that it agrees to pursue positively and aggressively the principle of equal opportunity in employment.

26. NOTICES

All notices, demands, and communications hereunder shall be in writing, shall be effective upon receipt, and may be served or delivered personally upon the party for whom intended, or mailed or transmitted by telefax, electronic mail, or similar electronic reproduction to the party for whom intended at the address set forth on the first page of this Agreement. The address of a party may be changed by notice given pursuant to this provision.

27. NON-ASSIGNABILITY

Subcontractor shall not transfer or assign, voluntarily or by operation of law, or otherwise, this Agreement or any part hereof, or any amounts due or to become due hereunder, without the prior written consent of CERM.

28. SOLE AGREEMENT

This Agreement represents the sole agreement between the parties hereto and cancels and supersedes all previous agreements, whether oral or written, in connection with the subject matter hereof. This Agreement may not be changed or terminated orally or by any course of conduct or usage of trade, but only by an agreement in writing duly executed by the parties hereto.

29. SEVERABILITY

If any part of this Agreement is determined by a court of competent jurisdiction or by agreement of the parties hereto to be unenforceable, the remainder thereof shall remain in full force and effect.

30. CONDITION PRECEDENT

A condition precedent to this Agreement becoming effective is the approval of Subcontractor by Owner to perform the Services called for herein, if such approval is required by the Prime Contract or this Agreement.

31. CONFIDENTIALITY

Subcontractor, and its agents, servants, employees and sub-subcontractors, shall not, either during or after the term of this Agreement, disclose to any person, firm, corporation, or other entity any Confidential Information relative to the work or business of CERM, Owner, or any affiliated entity without the prior written consent of CERM. "Confidential Information" shall be deemed to include (a) information communicated to Subcontractor with respect to CERM's methods of doing business and techniques and the like, (b) CERM's pricing information, and (c) all other information, conclusions, recommendations, reports, advice or other documents generated by Subcontractor pursuant to this Agreement or by CERM under the Prime Contract.

32. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, without regard to conflict of law principles; and Subcontractor consents to and submits to the jurisdiction of the courts of the State of Georgia over all litigated matters arising from or related to the Subcontract.

33. SUCCESSORS AND ASSIGNS

This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties hereto.

34. CONTINUING RESPONSIBILITY OF THE SUBCONTRACTOR

The Subcontractor and his surety, if any, shall not be released from any obligation, responsibility, duty or liability to CERM, Owner, or any other party for defective work or other non-compliance with this Agreement or breach thereof, by virtue of any approval, certification, final acceptance, progress payment, final payment, preliminary or final or other inspection, decision, instruction, statement, representation, partial or complete occupancy or use of the Site, or any other act, inaction or omission by CERM or Owner, or any officer, servant, agent or employee or representative of any of them. Furthermore, Subcontractor agrees that CERM or any of its duly authorized representatives shall have access to and the right to examine any pertinent books, documents, papers and accounting records of Subcontractor which pertain to transactions under this Agreement for a period of three (3) years after expiration of the Agreement.

35. TERM OF AGREEMENT

This Agreement shall commence upon the execution date and shall terminate on one of the following: a) one year after the date of execution, b) expiration of the Prime Agreement, c) expiration of a task order, (whichever is latest) unless sooner terminated in accordance with Section 17 or Section 18 of this agreement.

36. PARAGRAPH HEADINGS

The paragraph headings used in this Agreement are for convenience and reference only and are not of substantive effect.

SIGNATURES APPEAR ON THE NEXT PAGE

IN WITNESS WHEREOF, CERM and Subcontractor have caused this Agreement to be duly executed on this day of , 20 .

CORPORATE ENVIRONMENTAL RISK MANAGEMENT, L.L.C. (CERM)

By: _____

Name: Diometra Aldridge

Title: Director, Corporate Management & Strategic Initiatives

, (SUBCONTRACTOR)

By: _____

Name: _____

Title: _____

FEIN: _____

(IMPRESS CORPORATE SEAL)

ATTEST:

By: _____

Name: _____

Title: _____