

Master Service Agreement

This agreement (hereinafter the “Agreement”) is made and effective as of this _____ day of _____, 20____ between **United Service Network, LLC** a Texas Limited Liability Company (hereinafter referred to as the “Company”) and _____ (hereinafter referred to as the “Subcontractor”) to perform the services identified in Article I in accordance with the Projects Contract Documents, which include this Agreement along with all plans, specifications, and shop drawings where applicable.

ARTICLE 1 **Services**

- 1.1 The Subcontractor agrees that Services shall be completed during the hours that the Company mandates for that specific project, unless otherwise approved in advance by the Company in writing, and acknowledges the importance of such timeframe to the business interests of the Company.
- 1.2 Subcontractor shall furnish all equipment, tools, materials, supervision, and management necessary to provide the Services.
- 1.3 Subcontractor agrees to seek written approval from the Company prior to deviating from any agreed upon Scope of Work.
- 1.4 Subcontractor agrees to notify the Company in writing of any issues that may arise during the course of an agreed upon Scope of Work that may impact the Company or timeline of the agreed upon scope of work.
- 1.5 Subcontractor agrees to provide a call escalation contact list for communication purposes only to the Company.
- 1.6 Subcontractor agrees that it shall represent the Company in a professional manner and follow all of the Company’s requirements and protocols which shall be provided to the Subcontractor. Should the Subcontractor deviate from any of the Company’s requirements and/or protocols, the Company has the right to refuse payment.

ARTICLE 2 **Payment**

- 2.1 Subcontractor shall invoice the Company in writing for the Services performed. Each invoice shall be payable within seven (7) days after the invoice has been approved by the Company.
- 2.2 In the event payment for Services is not received within thirty (30) days from the date such payment is due, Subcontractor may suspend Services to the Company until such time as the Company has paid for all Services rendered to date. Suspension of Services by Subcontractor under this Section shall not deprive Subcontractor of any of its remedies or actions against the Company for past or future payments due under this Agreement, nor shall the bringing of any action for payment of services or other rights contained herein be construed as a waiver of any of Subcontractor’s rights.
- 2.3 All payments are also subject to the Company’s receipt of partial and final lien releases, sign off sheets, completion documents as required by the Company and as may be

applicable), and an invoice include a description of the work completed. If receipt of partial and final lien releases, sign off sheets, completion documents as required by the Company (and as may be applicable), and an invoice including a description of the work completed are not provided within seven (7) days of the work performed, the Company reserves the right to place a hold on the invoice until all listed documents are received by the Company. Should Company and Subcontractor have more than one (1) contract between them and Subcontractor breaches any such agreements, then Company may hold Subcontractor in breach of all agreements. Thereafter Company may set-off any and all damages incurred due to Subcontractor's breach against the sum(s) due on all agreements, including but not limited to for attorney fees and costs expended in recovering monies owed to, or damages incurred by, Company.

- 2.4 Subcontractor shall submit any invoice(s) to the Company within seven (7) days of the completion of the work. Should the Subcontractor not provide the Company with its invoice(s) within seven (7) days of the completion of work, the Company has the right to refuse the entirety of any monies owed with regards to that particular invoice.

ARTICLE 3

COVENANT NOT TO COMPETE: Subcontractor understands, acknowledges, and agrees that the Company is engaged in the business of commercial repairs and maintenance, and conducts business throughout the United States of America. Subcontractor also understands, acknowledges, and agrees that Subcontractor that he/she/it will not, during the term of his/her/its affiliation or work for the Company, and for a period of twelve (12) consecutive months immediately following the termination of any such agreements, for whatever reason whatsoever directly or indirectly, for himself/herself/its-self or on behalf of or in conjunction with any competing business:

- a. Call upon any clients/customers of Company for the purpose of diverting, soliciting, negotiating, or contracting any related services, materials, and/or labor.
- b. Directly or indirectly, alone or in any capacity, in any manner attempt to solicit or induce any persons employed or under contract by the Company to leave such employment or terminate such contract.
- c. Divert, solicit or take any customer/client of the Company for the purpose of engaging the customer/client in furnishing services, labor, and/or materials. Subcontractor agrees he/she/it will not distribute or otherwise cause to be distributed any marketing materials, including but not limited to, business cards and/or marketing pamphlets. Subcontractor further agrees he/she/it will not attach, affix, or otherwise display service labels, logos, trademarks, or any other item(s)/material(s) to any item(s), material(s), hardware, fixture(s), and/or appliance(s) Subcontractor supplies, repairs, and/or replaces under any contract with Company.
- d. Directly or indirectly, alone or in any capacity, engage in the business of furnishing labor, material, and/or services, within a 100 mile radius of any Company Project Site or place of business. A Project Site shall mean any location where Company

furnished labor, maintenance, materials, and/or services, at any time within the life of this Agreement or any time within the six (6) months immediately following the termination of this Agreement.

ARTICLE 4

CHANGES. The Company, without nullifying this Agreement, may direct Subcontractor in writing to make changes to Subcontractor's Services or Scope of Work. Adjustment(s), if any, to the contract price, materials utilized by the Subcontractor, and/or the time for completion of Subcontractor's work, resulting from such changes shall be set forth in a written Subcontract Change Order.

ARTICLE 5

COMPLIANCE WITH LAW AND PERMITS: The Subcontractor will provide a copy of his valid State/County and City Occupational License[s], copy of Permit for the project (or application for permit) and copy of his Local Business Tax receipt within 5 days of signing this Agreement. The Subcontractor shall obtain and pay for all necessary permits, licenses and inspections pertaining to the Subcontractor's Services or Scope of Work.

ARTICLE 6

INDEMNIFICATION. To the fullest extent permitted by law, the Subcontractor expressly agrees to indemnify and hold harmless the Company, United Service Network, LLC, each Project Owner, and their respective officers, directors, agents, shareholders, members, employees, and insurers, (collectively referred to herein as the "Indemnitees") from any and all liability for damages, including, if allowed by law, reasonable attorney's fees and court costs, such legal expenses to include fees and costs incurred in establishing the Company's entitlement to indemnification, incurred on appeals, and other rights agreed to in this Article, to persons or property caused in whole or in part by any act, omission, or default by the Subcontractor or its sub-subcontractors, materialmen, or agents of any tier or their employees, arising out of this Agreement or its performance, including any such damages caused in part by any act, omission, or default of any Indemnatee. Company shall advise Subcontractor in writing of any action, administrative or legal proceeding or investigation as to which this indemnification may apply and Subcontractor, at Subcontractor's expense, shall assume on behalf of the Company and conduct with due diligence and in good faith the defense thereof with counsel satisfactory to the Company. In the event of failure by the Subcontractor to fully perform in accordance with this indemnification paragraph, Company, at its option, and without relieving Subcontractor of its obligations hereunder, may so perform, but all costs and expenses so incurred by the Company in that event shall be reimbursed by Subcontractor to the Company, together with interest on the same from the date any such expense was paid by the Company until reimbursed by Subcontractor at the rate of interest provided to be paid on judgments, by the law of the jurisdiction to which the interpretation of this Contract is subject. The obligations of Subcontractor shall survive the expiration of the Contract and shall survive any limitations contained elsewhere in the Contract.

ARTICLE 7

Warranty

- 7.1 Subcontractor represents and warrants to the Company that: (a) it has all applicable licenses, permits rights, and/or certifications necessary for the performance of the Services; (b) it shall perform its Services in a professional, workmanlike, and diligent manner in accordance with this Agreement, any manufacturers' specifications, other applicable licenses and/or specifications, and applicable law; (c) it shall use appropriately skilled, qualified, professional, licensed, and competent staff to perform the Services; and (d) it fully complies with all federal and state statutes and regulations regarding employment eligibility verification and employment of work-authorized individuals, and shall comply with all future laws pertaining to the same.
- 7.2 Subcontractor acknowledges that work performed will be covered under warranty, when applicable, for a period of thirty (30) days or Manufacturer warranty (whichever is longer) under responsibility by the contracted vendor or Subcontractor, including work performed by any subcontractors/vendors contracted to/by the Subcontractor.

ARTICLE 8

ASSIGNMENT OR TRANSFER: The Subcontractor shall not assign or sublet this Agreement or any part, right, or interest herein or any money due or to become due without the Company's prior written consent.

ARTICLE 9

DISPUTES, GOVERNING LAW, AND JURISDICTION:

The Company and the Subcontractor (collectively referred to as the "Parties") agree that this Agreement, the interpretation of its terms and the performance of all obligations hereunder shall be construed and regulated under and by the laws of the State of Texas, including all procedural, substantive, and choice of law rules, regardless of the place this Agreement may have been executed or where performance hereunder takes place. The Parties hereby consent to personal jurisdiction in the State of Texas and agree that the proper venue for any dispute under this Agreement shall be Bexar County, Texas. The Parties further agree that in the event of litigation regarding this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, including those incurred on appeal.

ARTICLE 10

INSURANCE AND WAIVER OF SUBROGATION: The Company, its affiliates, subsidiaries, assigns, shareholders, members, employees, or other similarly situated shall not be liable for any loss or casualty incurred or caused by the Subcontractor. The Subcontractor shall maintain full and complete insurance on its Work, Services, and equipment until completion of all Work and Services. The Subcontractor assumes all risk of loss for all Work or Services provided regardless of whether the Subcontractor had previously

been paid for the Work or Services. The Company shall not be responsible to provide any protective service for the Subcontractor's benefit and is not liable for any loss or damage to the Subcontractor's work, Services, or equipment. The Company may retain any and all monies due or to become due to the Subcontractor, under this or any other Agreement, to apply against Subcontractor's obligations of indemnity. Subcontractor understands, acknowledges, and agrees that: Subcontractor has an obligation to provide accurate information and documentation; Subcontractor warrants that the information and documentation provided to Company is true and accurate; Company is relying on Subcontractor to provide accurate information and documentation; that Company, at the time of entering into this Agreement, had no reason to doubt the accuracy or authenticity of the documentation or information provided by Subcontractor, and such reliance is entirely appropriate and reasonable under the circumstances.

Subcontractor shall procure and maintain not less than the following insurance coverages:

1. Worker's Compensation: [Select One] NOT EXEMPT / EXEMPT

(a) SUBCONTRACTOR NOT EXEMPT

- (1) Statutory benefits.
- (2) Employer's Liability: \$1,000,000.00 each accident Coverage must be endorsed to include a waiver of subrogation in favor of the Company, the Project Owner (including all related third-party entities), and each Project Architect and Engineer.

(b) SUBCONTRACTOR EXEMPT

- (1) By executing this Agreement, Subcontractor expressly warrants that it is in good standing and in compliance with the applicable workers' compensation laws of Subcontractor's domicile state. Further, Subcontractor shall maintain such good standing throughout the term of this Agreement, and Subcontractor's express warranty concerning the same shall survive termination of this Agreement.
- (2) Subcontractor understands and acknowledges that Company will incur identifiable increased cost(s) associated to, arising from, and/or as a result of Subcontractor's Exempt Status. Accordingly, Subcontractor agrees that Company's final payment to Subcontractor will be reduced in an amount equal to twenty-five (25%) of the amount due.
- (3) Subcontractor shall provide documentation to Company sufficient to evidence Subcontractor's claim of exemption from Worker's Compensation is proper, pursuant to *Texas Statutes*, or with the applicable workers' compensation laws of Subcontractor's domicile state.

- (4) Subcontractor understands, acknowledges, and agrees that, should Subcontractor sublet any part or parts of Subcontractor's Work to any individual(s) and/or entity(ies), Subcontractor shall ensure that each of individual and/or entity maintains legally sufficient Worker's Compensation Coverage or has provided accurate and true documentation evidence each claim of exemption from Worker's Compensation Coverage.
 - (5) Subcontractor understands, acknowledges, and agrees that Company shall not be held liable for the payment of compensation for personal injury(ies), personal damage(s), or death to Subcontractor's employees, representatives, agents, independent contractors, subcontractors, assigns, or other individual/entity that performs any or all parts of Subcontractor's Work (the foregoing list is not exhaustive).
- 2. Comprehensive or Commercial General Liability (including Premises-Operations; Independent Contractors' Protective; Products and Completed Operations; Broad Form Property Damage; and Contractual Liability):
 - (a) Combined single limits of \$1,000,000.00 occurrence; \$2,000,000.00 aggregate; Fire Damage Minimum of \$100,000.00; Medical Payment limit minimum \$5,000.00.
 - (b) Products and Completed Operations Insurance to be maintained for a minimum period of five (5) years after final payment.
 - (c) Policies must be specifically endorsed to include the Company and the Project Owner as additional insureds (utilizing endorsement CG2010 11/85, or its equivalent) (including products and completed operations), and coverage provided to the additional insureds must be endorsed to be primary and non-contributory and will waive rights of subrogation against the additional insureds.
- 3. Business Auto Liability (including owned, non-owned and hired vehicles):
 - (a) Single limit per occurrence/accident \$1,000,000.00.
 - (b) Include the Company and the Project Owner as additional insureds.
- 4. Umbrella Excess Liability: minimum \$1,000,000.00 or such higher amount required by the Project documents, over the primary insurance above.

The Subcontractor shall not sublet nor subcontract any parts of this Agreement without assuming absolute responsibility for requiring similar insurance from its subcontractors and suppliers. **No policy will permit cancellation without Thirty (30)-calendar days prior written notice of**

cancellation to the Company. Failure of the Subcontractor to maintain complete insurance may be deemed a material breach allowing the Company to terminate this Agreement, or to provide insurance at the Subcontractor's sole expense; in either case, however, the Subcontractor's liability shall not be lessened. Subcontractor acknowledges and agrees to furnish completed operations and contractual liability insurance under his general liability coverage. Acquiring such insurance at the specified amounts is a material term of this Agreement.

ARTICLE 11

CORRESPONDENCE AND SUBMITTALS: Any communications required or sent by Subcontractor regarding Work on said Project shall be transmitted through the Company. The Subcontractor shall not interfere with the Company's relationship with the Owner or third party business. The Subcontractor will not enter any other Agreement relating to the Project without the Company's prior written consent.

ARTICLE 12

Confidential Information Agreement

12.1 The Subcontractor and all of its authorized representatives shall not, both during and subsequent to the term, disclose to anyone other than authorized employees of the Company (or persons designated by such duly authorized employees of the Company) or use for the benefit of Subcontractor and any of its authorized representatives, or any entity other than the Company any information of a confidential nature, including but not limited to, information relating to: the existence and the terms of this Agreement; any of the Company's projects or programs; and the technical, operational, financial, commercial or any other affairs of the Company.

ARTICLE 13

LAYOUT, ROUGH-IN INFORMATION AND SLEEVES: Subcontractor is responsible for its own lay-out and for furnishing, locating and installing any sleeves, inserts, hangers, box-outs, etc. for all required structural penetrations. The Company will provide basic control lines and benchmarks only and all other layout or surveying required for the Work or Services included in this Agreement is the responsibility of the Subcontractor.

ARTICLE 14

REVISIONS AND/OR CHANGES: The Company, Architect or Owner, third party business, may make changes in the Work or Services to be performed and materials to be furnished under this Agreement at any time by written order and without notice to Subcontractor's sureties. Subcontractor will promptly perform this Agreement as changed. No changes are valid except upon written order from the Company. The Company is not liable to Subcontractor for extra work or materials furnished without a written order. Any increase or decrease in the Contract Consideration resulting from a change must be agreed to in writing by the Parties. Proposals for change order Work must be submitted to the Company within three (3) calendar days after the request is issued from the Company. Failure to submit proposal will result in the extra or

changed Work performed at no additional cost to the Company or Owner. Subcontractor shall submit cost breakdowns as required by the Company for all change order Work in addition to all other specified information required by the Contract Documents.

ARTICLE 15 **Standard of Work**

15.1 Should the quality of the Subcontractors work not meet the agreed upon standard, the Company will notify the Subcontractor to have the quality assessed and the work completed to the agreed upon standard. Should the Subcontractor be unable to meet the agreed upon standard of work within the approved Scope, the Company reserves the right to provide additional labor to make the corrective actions and will back bill the Subcontractor for the work completed. The Subcontractor shall be liable for any expenses, including labor and material expenses, incurred by the Company in the event that the Company is forced to provide additional labor to make the corrective actions to ensure that the Work and Service is of workman like quality.

15.2 The Subcontractor shall be responsible for any discrepancies, errors, and/or omissions in the information supplied to the Company for procurement of materials or products under this Agreement.

The Subcontractor shall, at its own expense, carry out alterations or other remedial work necessitated by reason of such discrepancies, errors, and/or omissions. Should the Subcontractor fail to carry out alterations or other remedial work necessitated by reason of such discrepancies, errors, and/or omissions at its own expense upon notice from the Company, the Subcontractor shall bear all costs incurred by the Company in performing resulting alterations or remedial work, and shall bear any and all other expenses incurred by the Company relating to such instances, including, but not limited to, lost profits, loss of goodwill, and/or attorneys' fees and costs.

ARTICLE 16

RELEASE OF LIEN(s): If at any time there shall be evidence of any lien or claim for which, if established, the Company, or Owner of said premises might become liable, and which is chargeable to the Subcontractor and/or when damage shall be caused by this Subcontractor to other work, the Company shall have the right to retain out of any payment then due or thereafter to become due, an amount sufficient to completely indemnify itself and the Owner of said premises for any loss or damage, including legal fees and disbursements, which either may sustain in discharging such lien or claim. Should there prove to be any such claim after all partial or final payments are made, the Subcontractor, either corporately or personally shall refund to the Company all moneys that the Company or the Owner of the premises paid in discharging such lien on or claim against such premises and all expenses incurred in connection therewith. Subcontractor will deliver its Work to the Company free of all claims, encumbrances, or liens and Subcontractor shall defend all actions to establish claims and pay any claim or lien so established at his/her/its own cost and expense. Subcontractor shall furnish a sworn statement with each monthly requisition showing the names and addresses of all parties who furnish labor or materials to Subcontractor with the amount due or to become due. A similar statement may be required from any subcontractors or vendors of Subcontractor. Subcontractor shall certify that all

labor, material, equipment or services used in the performance of this Agreement for previous months have been paid for before making application for the following months payment requisition. A similar waiver and release of lien, on the Company's form, must be submitted before monthly disbursement or final payment. Final release of liens shall mean release of lien of Project's property, Owner and any claims against the Company and its officers, shareholders, members, employees, representatives and surety. If requested by the Company, Subcontractor must deliver to the Company's office all releases of lien from Subcontractor's suppliers or subcontractors when Subcontractor picks up check for that corresponding month's payment.

ARTICLE 17

JOINT CHECKS: The Company reserves the right to issue joint checks to Subcontractor and their material suppliers, subcontractors of Subcontractor, labor unions, equipment suppliers, and etc. if, in the Company's sole judgment and discretion, the Company believes Subcontractor is misappropriating funds or fails to issue to the Company all releases of lien and it is necessary in order to insure payment to Subcontractor's vendors or subcontractors or if above named parties have filed a Notice to Owner, Lien, or Intent to Lien, etc.

ARTICLE 18

ENTIRE AGREEMENT: This Agreement represents the entire agreement between the Subcontractor and the Company and no prior written or oral proposals, agreements, attachments not specified herein shall be part of this Agreement. This Agreement may not be altered or modified without the express written agreement of all Parties hereto.

SEVERABILITY: If any portion of this Agreement is found to be unenforceable by a Court of competent jurisdiction, then that part of this Agreement shall be deemed severed and that balance of the Agreement shall remain in full force and effect.

ARTICLE 19

Term of Contract

19.1 The term of this Agreement shall be for one (1) year from the Effective Date.

19.2 After the initial term, this Agreement shall continue on a month-to-month basis unless or until either party terminates upon thirty (30) days written notice.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned Parties have read, understood, and executed this Agreement on the day and year first written above.

COMPANY:

United Service Network, LLC
16414 San Pedro Avenue, Ste 455
San Antonio, TX 78232

SUBCONTRACTOR:

Address: _____

(Signature)

By: _____

Title: _____

Date: _____